HOUSING AND TOWN PLANNING IN GREAT BRITAIN

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BEING

A STATEMENT OF THE STATUTORY PROVISIONS RELATING TO THE HOUSING OF THE WORKING CLASSES AND TO TOWN PLANNING

INCLUDING THE

HOUSING, TOWN PLANNING, ETC., ACT, 1909

BY

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PREFACE.

The legislation relating to the Housing of the Working Classes in Great Britain is now contained in half a dozen statutes. Nearly a third of the sections of the principal Act have been repealed or amended, particularly by the recent Act of 1909, which has also materially affected the intermediate amending Acts.

Under these circumstances it is thought that a useful purpose may be served by collecting the numerous statutory provisions and by arranging them in such order as will make them readily accessible to those whose duty it is to administer, or to advise upon, them.

The innovation introduced by empowering local authorities to make Town Planning Schemes will justify the Second Part of the treatise.

W. A. W.

1, King's Bench Walk,
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January 19, 1910.

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HOUSING AND TOWN PLANNING IN GREAT BRITAIN.

INTRODUCTION.

Purpose of the treatise.—The new statute, which was passed on December 3, 1909, and comes into immediate operation (*a*), is described in its extended title to be "an Act to amend the law relating to the housing of the working classes, to provide for the making of town planning schemes, and to make further provision with respect to the appointment and duties of county medical officers of health, and to provide for the establishment of public health and housing committees of county councils."

The only portion of the statute which can claim to be original in its subject is the Second Part, which deals with Town Planning. Most of the remainder is a copious contribution to the already numerous amendments of the Housing of the Working Classes Act, 1890; and the perusal of the First Part of the new Act will disclose a bewildering maze of cross-references to the provisions of previous statutes. This method of legislating by reference is always to be deplored, but, under the circumstances existing, it was unavoidable if a much-needed reform was to be accomplished without further delay.

The main object of this handbook is to attempt a comprehensive arrangement of the provisions and legal effect of the new statute, and to present that arrangement in language as far removed from technicalities as the subject will permit. It is impossible to do this without including such of the

(*a*) Except the section relating to underground sleeping rooms ((1909) s. 17 (7)), as to which, see p. 112, *post*.

provisions of the previously existing statutes as remain unrepealed. It is therefore proposed, without going into more detail than can be avoided, to weave together the whole of the existing legislation, and to present the subject in such a form as, it is hoped, will be not only intelligible but also palatable.

Previously existing legislation on housing.—At the time of the passing of the new Act, there were in operation in the United Kingdom, or in some portion of it, eight statutes relating directly to the Housing of the Working Classes. They consisted of the principal Act of 1890, and seven amending Acts. Of these latter, that of 1893 related to Ireland only, that of 1894 affected the whole Kingdom, one of 1896 related to Ireland, and another of that year to Scotland, two others of 1900 and 1903 applied to England, and excluded Scotland and Ireland (*b*), while the last, that of 1908, applied to Ireland only.

The principal Act of 1890 was divided into seven Parts, two of which related to Scotland and Ireland, one to repeals and temporary provisions, and a fourth was supplemental. The remaining three contained the main features of the Act and laid down provisions for dealing with: (1) Unhealthy areas; (2) unhealthy dwelling-houses, either as being themselves unfit for human habitation, or as being obstructive to the healthy condition of other buildings; and (3) the provision of working-class lodging-houses.

Chief characteristics of, and alterations by, the new Act.—*Its arrangement.*—The Act of 1909 is divided into four Parts. The First relates to the Housing of the Working Classes; the Second to Town Planning; the Third to certain miscellaneous matters relating to the appointment, by county councils, of medical officers of health, and of public health and housing committees, and the assistance which such councils may give to societies interested in Housing; while the Fourth merely relates to certain supplemental matters and to repeals and titles. Although the Third Part is not in all its provisions directly connected with the subject of Housing, those provisions are

(*b*) (1900) s. 8 (2); (1903) s. 17 (2).

so far connected with it as to justify their inclusion in the First Part of the treatise.

Its application.—The whole Act, including the provisions relating to Town Planning, applies to Scotland as well as to England and Wales. No part of the Act affects Ireland (*c*).

As regards Scotland, the effect of the new legislation is to make the law of that country relating to the Housing of the Working Classes the same as that prevailing in England, except in certain minor details rendered necessary by differences in administration and other matters (*d*). This effect has been produced by repealing section 3 of the Act of 1896, which relates only to Scotland (*e*), and by making the statutes of 1900 and 1903, as amended by the Act of 1909, and this last Act itself, applicable to that country (*f*).

Its aim to simplify administration and to extend powers.—In dealing with the subject of the housing of the working classes, the aim of the legislature in the new Act has been simplification in administration and procedure, and an extension of the powers of all authorities.

Perhaps the most striking characteristic of the Act is the enormous power which it places in the hands of the Local Government Board. This substitution of the authority of a government department for the authority of Parliament, and of the courts of law, is not a new departure, but in the present instance it has been carried to an extent never before reached.

Confirmation by Parliament dispensed with.—As a general rule there is no longer any necessity to obtain the confirmation of Parliament for schemes dealing with unhealthy areas under Part I. of the principal Act of 1890 (*g*), or for reconstruction schemes under Part II. (*h*), or for any modifications of such schemes, or for exercising compulsory powers of purchase for the purposes of Part III. (*i*). All these things can now be effected by an order of the Local Government Board, even when they involve the taking of land

(*c*) (1909) s. 76 (2).
(*d*) See Part. I., Chap. VII., p. 116, *post.*
(*e*) (1909) s. 75, and Sched. VI.
(*f*) (1909) ss. 52 and 76 (1).
(*g*) p. 22, *post.*
(*h*) p. 57, *post.*
(*i*) p. 74, *post.*

compulsorily. To this rule there are two exceptions. Confirmation by Parliament is required: (1) of an order authorising the acquisition or appropriation of any part of a common, open space, or allotment (*k*); and (2) of an order made under certain circumstances for the acquisition under Part III. of the principal Act of 1890 of land situate in London, or a borough, or urban district (*l*). Further, an order of the Local Government Board to compel the exercise of powers under Parts II. and III. of the principal Act must be laid before both Houses of Parliament (*m*).

Appeals to quarter sessions abolished.—The right of appeal to a court of quarter sessions from an order by a local authority for the demolition of unhealthy dwellings is now taken away, and an appeal to the Local Government Board is substituted (*n*). This also applies to any order of a local authority made under Part II. of the principal Act, where an appeal is given by the Act of 1909 to the Board (*o*).

Closing orders by the local authority.—In dealing with unhealthy dwellings, it is no longer necessary for a local authority to obtain a closing order from a magistrate or justices, but they may make the order themselves, subject to the right of the person aggrieved to appeal to the Local Government Board, whose decision is final. The former provisions relating to the making of closing and demolition orders are repealed, and entirely new provisions are made (*p*).

Part III. no longer adoptive.—Part III. of the principal Act, relating to Working Class Lodging Houses, was formerly adoptive. It is now to take effect in all districts, as if it had been duly adopted (*q*), and powers are given to the local authorities to lay out and construct public streets or roads on lands acquired under this Part of the Act, or to contribute to the cost of such construction (*r*).

A county council may obtain from the Local Government Board an order conferring upon them the powers under Part III. over a rural district which they regard as expedient to be exercised by them (*s*).

(*k*) p. 96, *post*. (*l*) p. 75, *post*. (*m*) pp. 69, 84, *post*.
(*n*) p. 46, *post*. (*o*) p. 42, *post*. (*p*) p. 40, *post*.
(*q*) p. 71, *post*. (*r*) p. 80, *post*. (*s*) p. 71, *post*.

Compulsory purchase under Part III.—The procedure for the compulsory purchase of land under s. 176 of the Public Health Act, 1875, for the purpose of Part III. of the principal Act, is now superseded by the procedure laid down in the First Schedule of the new Act (*t*).

Certain restrictions are imposed on the powers of compulsory purchase in favour of property belonging to local authorities, or public undertakings, or which is required for the amenity or convenience of dwelling-houses (*u*). Places of archæological interest are also protected against acquisition (*x*).

Power to assist building societies.—Provision is made for enabling county councils to promote or assist societies having for their object the erection or improvement of dwellings for the working classes (*y*).

Loans.—The terms upon which loans may be made to local authorities by the Public Works Loan Commissioners for the purposes of the Housing Acts are made more liberal in favour of the authorities (*z*).

Gifts, etc., of lands, etc.—Local authorities are empowered to accept donations of land, money, or other property for any of the purposes of the Housing Acts, without any of the formalities under the Mortmain and Charitable Uses Act, 1888; and power is also given to the Local Government Board to institute or intervene in proceedings relating to the execution of trusts for housing purposes (*a*).

Powers to secure performance of duties.—For the purpose of enforcing execution of their duties under the Housing Acts by local authorities, ample powers are given to the Local Government Board to make orders upon the authorities enforceable by mandamus (*b*); and power is also given to the county council to take over and exercise the powers of a rural district council who default in exercising their powers under Part III. of the principal Act (*c*).

Power is given to the Local Government Board to require a local authority to report on a crowded area (*d*).

(*t*) p. 73, *post.*
(*u*) p. 96, *post.*
(*x*) p. 96, *post.*
(*y*) p. 102, *post.*
(*z*) p. 106, *post.*
(*a*) pp. 88, 98, *post.*
(*b*) p. 68, *post.*
(*c*) p. 84, *post.*
(*d*) p. 93, *post.*

The Board can also revoke unreasonable byelaws which impede the erection of dwellings for the working classes in any borough, or urban or rural district (*e*).

Joint action by local authorities.—The Local Government Board are given power to authorise local authorities to act jointly for the purposes of the Housing Acts (*f*).

Local Government Board as tribunal of appeal.—Besides the subjects of appeal mentioned in the preceding pages there are others in which the decisions of the Board are conclusive, subject to the statement of a special case on points of law (*g*).

County medical officers of health.—The appointment of medical officers of health by county councils (except in London and Scotland) is now obligatory, and provision is made for their working together with the medical officers of district councils (*h*).

Public health and housing committees.—A public health and housing committee must be established by every county council, except the London County Council, and councils in Scotland (*i*).

Liabilities of landlords and private owners.—As regards the owners of property let for habitation, considerable alteration has been made in the law. It is not confined to a letting of property to the working classes. Not only has the implied condition as to the fitness of premises for habitation been extended to properties let at higher rents than formerly, but the implied condition itself has been extended. It is not only a condition that the fitness of the premises exists at the date of the commencement of the tenancy, but that it shall be maintained during the term of the holding. The condition is attached to certain contracts made after the passing of the Act (*k*). Power is given to the local authority to ensure compliance with the terms of the implied condition (*l*).

As a general rule the erection of back-to-back houses is forbidden, and if erected in future they will be deemed unfit for habitation. There are two exceptions to this prohibition (*m*). Sleeping rooms below a certain level and transgressing certain

(*e*) p. 93, *post.* (*f*) p. 92, *post.* (*g*) p. 91, *post.*
(*h*) p. 100, *post.* (*i*) p. 100, *post.* (*k*) p. 108, *post.*
(*l*) p. 110, *post.* (*m*) p. 112, *post.*

conditions are also to be regarded as unfit for human habitation as from the first day of July, 1910 (*n*).

The powers of authorities for making byelaws with respect to lodging-houses for the working classes have been extended (*o*).

Town Planning.—The subject of Town Planning is dealt with in Part II. of the Act (*p*). For this purpose the Local Government Board are given very wide powers. They may authorise a local authority to prepare a scheme to control the development of building land in or neighbouring on their area, or to adopt such a scheme when prepared by other persons. The Board can reject the scheme, or can approve it with or without modifications or conditions. The intervention of Parliament is unnecessary, except when, after publication of the scheme, objection is raised to it. In that case the draft Order of the Board is to be laid before both Houses of Parliament, and if within thirty days either House presents an address to His Majesty against the draft, or any part of it, no further proceedings may be taken thereon. But this does not prevent the making of a new scheme (*q*).

The Board are required to frame general provisions (which must be submitted to Parliament) as to the contents of schemes, and are to insert special provisions in each scheme fixing, *inter alia*, the area to which it is to apply, and the authority to be responsible for its execution, and providing for the execution of any works which are to be executed by a local authority (*r*). If the scheme contains provisions suspending any enactment contained in a public general Act it must be laid before both Houses of Parliament (*s*). Regulations as to procedure are to be made by the Board (*t*).

The Board have power to compel local authorities to make town-planning schemes when necessary (*u*).

Compensation.—Provision is made for the payment of compensation for property injuriously affected, subject to stringent conditions and limitations (*x*). On the other hand, the authority may claim as compensation for betterment one-half of the increase in the value of lands caused by reason of

(*n*) p. 112, *post.*
(*o*) p. 98, *post.*
(*p*) p. 126, *post.*
(*q*) p. 127, *post.*
(*r*) p. 128, *post.*
(*s*) p. 130, *post.*
(*t*) p. 131, *post.*
(*u*) p. 136, *post.*
(*x*) p. 134, *post.*

the scheme (*y*). All disputes arising in connection with compensation are to be determined by an arbitrator appointed by the Board, unless the parties otherwise agree (*z*).

Determination of questions by the Board.—Other disputes are to be determined by the Board as arbitrators, unless the parties otherwise agree, and provisions are made for such arbitrations (*a*).

London.—Part II. applies to the administrative county of London, and the London County Council is the "local authority" for this purpose in that area (*b*). Special provisions are made to safeguard the interests of the London County Council where a scheme made by an authority outside London affects land within the county of London (*c*).

Outside London.—The "local authorities" outside London who are charged with the execution of this Part of the Act are the borough, urban district, and rural district, councils (*d*).

Arrangement of the treatise.—Following the arrangement of the new statute of 1909, it is proposed to divide the subject into two parts; the First dealing with the Housing of the Working Classes, and the Second with the new subject of Town Planning. The First Part, however, covers considerable ground, and in its arrangement it will be found useful to follow the lines of division referred to previously (*e*) as being the main features of the principal Act of 1890.

This will be done in chapters. One of these will deal with some definitions and general matters. Three will deal respectively with unhealthy areas, unhealthy dwelling-houses, and lodging-houses for the working classes. Further chapters will deal with general provisions affecting the Local Government Board and other authorities; provisions directly affecting property owners; and, lastly, the modifications provided for the application of the Housing Acts to Scotland.

Ireland.—The new Act does not apply to Ireland (*f*), so that the legislation previously existing as applicable thereto remains unaltered. It is for this reason, and to avoid complication, that the subject, in so far as Ireland is concerned, is not dealt with in this treatise.

(*y*) p. 135, *post.*
(*z*) p. 135, *post.*
(*a*) p. 138, *post.*
(*b*) p. 126, *post.*
(*c*) p. 131, *post.*
(*d*) p. 126, *post.*
(*e*) p. 2, *ante.*
(*f*) (1909) s. 76 (2).

PART I.

HOUSING OF THE WORKING CLASSES.

CHAPTER I.

SOME DEFINITIONS AND GENERAL MATTERS.

"Working classes."—It is curious to notice that throughout the several statutes relating to the housing of the working classes, no general definition is to be found of the expressions "working classes" or "persons of the working class." The nearest approach to it is to be seen in the Schedule to the Act of 1903, where it is enacted that, for the purpose of this schedule, "the expression 'working class' *includes* mechanics, artisans, labourers, and others working for wages; hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them." This was the description to be found of the expression "labouring class" in the Standing Orders of Parliament. In the absence of a general definition the description may be taken as a guide to what the legislature have in their minds when speaking of the working classes; but it must be remembered that the use of the word "includes" does not restrict the meaning of the term to the persons mentioned. On the contrary, its effect is to extend the meaning that might ordinarily be attached to the term.

One learned judge has given it as his opinion that the expression "working class" refers to that class of persons who

ordinarily live in such a state and condition of life that overcrowding is likely to take place (*a*).

Another meaning is given to the term "working classes" by, and for the purpose of, the Settled Land Acts (*b*).

It may be useful to note here that the provisions of the Act of 1909 as to the letting of property for habitation, and as to the conditions to be implied on such letting, are not confined to letting for habitation by the working classes. The test is the amount of rent paid and the length and conditions of the tenancy (*c*).

"Housing Acts."—The expression "Housing Acts" is used to mean the principal Act of 1890, and any Act amending that Act, including the new Act of 1909 (*d*).

Part I. of the Act of 1909 is to be construed as one with the Acts 1890–1903. They may be cited together as the Housing of the Working Classes Acts, 1890–1909 (*e*).

Local authorities.—The local authorities for the purpose of exercising the powers and duties of the Housing Acts vary according to the part of the principal Act under which they are required to proceed. It may be useful to group them together at the outset.

Under Part I. of the Act of 1890.—Under Part I. of the principal Act unhealthy areas are dealt with by improvement schemes, and the local authorities charged with the duty of enforcing the powers thereunder are in England:

In provincial boroughs, the borough councils (*f*);

In urban districts, the urban district councils (*g*);

In London (exclusive of the City) the London County Council (*h*);

In the City of London, the Common Council (*i*).

(*a*) Mr. Justice Channell in *London County Council* v. *Davies* (1897), 62 J. P. 68; 72 L. T. 693.

(*b*) See p. 115, *post*.

(*c*) See p. 108, *post*.

(*d*) (1909) s. 51.

(*e*) (1909) s. 76 (1).

(*f*) (1890) s. 92, Sched. I.; Public Health Act, 1875, s. 6; and Local Government Act, 1894, s. 21.

(*g*) *Ibid.*, and Local Government Act, 1894, s. 21.

(*h*) (1890) s. 92, and Sched. I.

(*i*) *Ibid.*, and City of London Sewers Act, 1897, s. 7.

In Scotland the local authorities are those of burghs under the Public Health (Scotland) Act, 1897 (*k*).

Under Part II. of the Act of 1890.—Part II. of the principal Act deals with unhealthy dwelling-houses, and for this purpose the local authorities in England are:

In provincial boroughs, the borough councils (*l*);

In urban districts, the urban district councils (*m*);

In rural districts, the rural district councils (*n*);

In the City of London, the Common Council (*o*);

In the metropolitan boroughs, the metropolitan borough councils (*p*).

In Scotland the authorities are the local authorities under the Public Health (Scotland) Act, 1897, in their respective districts (*q*).

Under Part III. of the Act of 1890.—The local authorities who formerly had power to adopt this Part of the principal Act, and who, therefore, now have power and are under obligation (*r*) to execute its provisions, were and are, in England, as follows:

In provincial boroughs, the borough councils (*s*);

In urban districts, the urban district councils (*t*);

In rural districts, the rural district councils (*u*);

subject, however, to a transfer of those powers to the county council (*x*);

In the county of London (exclusive of the City), the County Council (*y*);

(*k*) (1909) s. 53 (5), (7); and see Public Health (Scotland) Act, 1897, s. 12.

(*l*) (1890) s. 92, Sched. I.; Public Health Act, 1875, s. 6; and Local Government Act, 1894, s. 21.

(*m*) *Ibid.*, and Local Government Act, 1894, s. 21.

(*n*) *Ibid.*

(*o*) (1890) s. 92, Sched. I., and City of London Sewers Act, 1897, s. 7.

(*p*) *Ibid.*, and the London Government Act, 1899, s. 4.

(*q*) (1909) s. 53 (5) and (7); and see Public Health (Scotland) Act, 1897, s. 12.

(*r*) See p. 84, *post.*

(*s*) (1890) s. 92, Sched. I.; Public Health Act, 1875, s. 6; and Local Government Act, 1894, s. 21.

(*t*) *Ibid.*, and Local Government Act, 1894, s. 21.

(*u*) *Ibid.* The power of adoption was subject to restrictions all of which are now swept away, and need not, therefore, be discussed.

(*x*) See p. 71, *post.*

(*y*) (1890) s. 92, and Sched. I.

In the metropolitan boroughs, the metropolitan borough councils (*z*);

In the City of London, the Common Council (*a*).

In Scotland, the local authorities are those under the Public Health (Scotland) Act, 1897, in their respective districts (*b*).

Local rates.—Where local rates are referred to in the Housing Acts, the expression has the following meanings in England:

In the case of an urban sanitary authority, *i.e.* a borough or urban district council, the local rate is the rate out of which the general expenses of the execution of the Public Health Acts are defrayed, *i.e.* the general district rate (*c*).

In the case of rural district councils the local rate is the rate out of which the "general" or "special" expenses, as the case may be, of the execution of the Public Health Acts are defrayed (*d*).

In the case of the London County Council, the local rate is the county fund, and the amount payable is to be deemed to be required for special county purposes (*e*).

In the case of the City of London, the local rate is the sewer rate and consolidated rate leviable under the City of London Sewers Acts by the Common Council (*f*).

In the case of metropolitan borough councils the local rate is the general rate of the borough (*g*).

As to Scotland, see *post* (*h*).

(*z*) *Ibid.*, London Government Act, 1899, s. 5 (2), and Sched. II., Part II.; (1900) s. 3 (1).

(*a*) (1890) s. 92, and Sched. I.; and City of London Sewers Act, 1897, s. 7.

(*b*) (1909) s. 53 (5) and (7); and see Public Health (Scotland) Act, 1897, s. 12.

(*c*) (1890) s. 92, and Sched. I. See Public Health Act, 1875, ss. 207–210. See, also, as to the payment of expenses under Part III. out of rates levied under a local Act, p. 82, *post*.

(*d*) (1890) s. 92, and Sched. I., as amended by the Local Government Act, 1894. See Public Health Act, 1875, s. 229.

(*e*) (1890) s. 92, and Sched. I.

(*f*) (1890) s. 92, and Sched. I., as amended by the City of London Sewers Act, 1897.

(*g*) (1890) s. 92, and Sched. I., as amended by the London Government Act, 1899, and (1900) s. 3 (1).

(*h*) p. 122.

Medical officers of health.—Authorities are empowered during the illness or unavoidable absence of their medical officer of health to appoint, subject to the approval of the Local Government Board, a duly qualified medical practitioner for a period of six months or less period to be named in the appointment (*i*). The medical officer of health referred to in Parts I. and II. of the principal Act of 1890 includes any person authorised to act temporarily as such officer (*k*).

In London, the county council may, with the consent of the Local Government Board (*l*), appoint one or more legally qualified practitioners, with such remuneration as they think fit, for the purpose of carrying into effect any part of the Housing Acts (*m*). Any medical officer of health appointed by the county council (*n*), and any of the officers appointed under the above power, are to be deemed medical officers of health of a local authority within the meaning of the Housing Acts (*o*).

As to the duties of county councils to appoint medical officers of health, see *post* (*p*).

Authority of Secretary of State transferred.—Under the earlier Acts the confirmation or authority of the Secretary of State was necessary for certain purposes. By the Act of 1903 (*q*), power was given to His Majesty by Order in Council to assign any of such powers and duties under the Housing Acts, or under any scheme thereunder, or under any local Acts, so far as they related to the housing of the working classes, to the Local Government Board. All such powers and duties have since been so assigned, and have become powers and duties of the Local Government Board (*r*).

(*i*) (1890) s. 26. See, also, as to the appointment of deputy medical officers of health: Public Health Act, 1875, s. 191; and Public Health (London) Act, 1891, s. 109.
(*k*) (1890) s. 79 (1).
(*l*) Formerly Secretary of State, but see *infra*.
(*m*) (1890) s. 76 (1).
(*n*) The Local Government Act, 1888, s. 17, gives this power.
(*o*) (1890) ss. 5 (1) and 76 (2).
(*p*) p. 100.
(*q*) (1903) s. 2 (1).
(*r*) By Order in Council, dated Feb. 27, 1905. The provisions of the Board of Agriculture Act, 1889, s. 11, with the necessary modifications, apply with respect to these transferred powers and duties ((1903) s. 2 (2)).

CHAPTER II.

PROVISIONS FOR DEALING WITH UNHEALTHY AREAS.

SECTION 1.—PRELIMINARY AND GENERAL.

Scope of Part I. of Act of 1890.—The main provisions which confer upon authorities the powers and duties of dealing with unhealthy areas are to be found in Part I. of the principal Act of 1890 (*a*).

This part does not apply to rural districts (*b*).

Local authorities under Part I.—See as to these *ante* (*c*).

"Street."—The term "street" has (unless the context otherwise requires) the same meaning as in Part II., and therefore includes any court, alley, street, square, or row of houses (*d*).

SECTION 2.—PREPARATION AND CONFIRMATION OF SCHEMES.

Initial proceedings as to unhealthy areas.—Proceedings for dealing with unhealthy areas in any district are initiated by an official representation being made in writing (*e*) by the medical officer of health (*f*) to the local authority (*g*);

(1) that within a certain area in the district of the authority either

(*a*) any houses, courts, or alleys are unfit for human habitation, or

(*b*) the narrowness, closeness, and bad arrangement, or the bad condition of the streets (*h*) and houses or groups of houses within such area, or the want

(*a*) (1890) ss. 2-28.
(*b*) (1890) s. 3.
(*c*) p. 10.
(*d*) (1909) s. 48.
(*e*) (1890) s. 79 (2).
(*f*) See p. 13, *ante*.
(*g*) See p. 10, *ante*.
(*h*) See *supra*.

of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the said area or of the neighbouring buildings; and

(2) "that the most satisfactory method of dealing with the evils connected with such houses, courts, or alleys, and the sanitary defects in such area is an improvement scheme" (*i*) for the rearrangement and reconstruction of the streets and houses within such area, or of some such streets or houses (*k*).

Duties of medical officers of health as to unhealthy areas.—Upon discovering an unhealthy area as described above, it is the duty of the medical officer of health (*l*) to make an official representation in writing (*m*) to the local authority of the existence of such area in their district (*n*). In London any medical officer of health of the metropolitan boroughs as well as the medical officers of health or other medical officers which the London County Council are expressly empowered to appoint (*o*), may make the representation (*p*).

The attention of the medical officer of health may be drawn to the existence of the unhealthiness of an area by two or more justices of the peace acting within his district, or by twelve or more ratepayers. It is then the duty of the medical officer forthwith to inspect such area, and to make an official representation stating the facts of the case, and whether in his opinion the said area or any part of it is or is not an unhealthy area (*q*).

If after the complaint of such ratepayers the medical officer of health does not inspect the area, or does not make an official representation with respect to it, or if he makes an

(*i*) (1909) s. 22. The words quoted are by this Act substituted for narrower words which were to the effect that the defects could not be "effectually remedied otherwise than by an improvement scheme."
(*k*) (1890) s. 4.
(*l*) See p. 13, *ante*.
(*m*) (1890) s. 79 (2).
(*n*) (1890) s. 5 (2).
(*o*) (1890) s. 76 (1), and p. 13, *ante*.
(*p*) (1890) s. 5 (1).
(*q*) (1890) s. 5 (2).

official representation to the effect that in his opinion the area is not an unhealthy area, such ratepayers, or an equal number of other ratepayers of the district (*r*), may appeal to the Local Government Board (*s*). Upon satisfactory security for costs being given, the Board must appoint some one to inspect the area, and to make a representation to the Board, stating the facts of the case, and expressing his opinion as to whether or not the area is an unhealthy area.

The person to be appointed may be a legally qualified medical practitioner, or may be any inspector or officer of the Local Government Board, or any person employed by the Board, and the provisions relating to inquiries by the Local Government Board (*t*) apply (*u*).

The representation is then to be submitted by the Board to the local authority, and if it states that the area is an unhealthy area, that authority must proceed as if the representation were an official representation made by the medical officer of health (*x*).

The costs of the inquiry are in the discretion of the Local Government Board. They may by order require the whole or any part of the costs to be paid by the appellants where it is found that the area is not an unhealthy area, and by the local authority if the area, or any part thereof, is decided to be an unhealthy area (*y*). Such order may be made a rule of a superior court, and be enforced accordingly (*z*).

Duty of local authority on receiving official representation.—When an official representation as previously described has been received by the local authority, whether from the medical officer of health or from the Local Government Board after inquiry on the complaint of ratepayers (*a*), the local authority must consider such representation. If

(*r*) (1903) s. 4 (2).
(*s*) (1890) s. 16, and (1903) s. 2 (1), and p. 13, *ante*.
(*t*) See p. 92, *post*.
(*u*) (1890) s. 16 (1); (1909) s. 26.
(*x*) (1890) s. 16 (1).
(*y*) (1890) s. 16 (2).
(*z*) (1890) s. 16 (3). Superior court means Supreme Court ((1890) s. 93). As to Scotland, see p. 124, *post*.
(*a*) Or in London from the medical officer of health or other proper officer after an inquiry and report under s. 73 (1) of the Act of 1890, as to which see p. 17, *post*.

they are satisfied of its truth, and of the sufficiency of their resources, they must pass a resolution declaring the area to be an unhealthy area, and that an improvement scheme ought to be made in respect of it. Thereupon they are required to proceed to make a scheme for the improvement of the area, and they may include in their scheme any number of unhealthy areas (*b*).

To this course there are two exceptions, when the official representation is made to the London County Council:

(1) If it relates to not more than ten houses the county council must not proceed as above, but must direct the medical officer of health (*c*) to represent the case to the local authority under Part II. (*d*) of the Act, and it then becomes the duty of that local authority to deal with the case under that part of the Act (*e*).

(2) If the representation is made to the London County Council in relation to any houses, courts, or alleys within a certain area, and the county council resolve that the case of such houses, courts, or alleys is not of general importance to the county of London, and should be dealt with under Part II. of the principal Act, the council may submit such resolution to the Local Government Board (*f*). Thereupon the Board may appoint an arbitrator, and direct him to hold a local inquiry, and to report to the Board as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of Part I. of the Act, the case is either wholly or partially of any and what importance to the county of London, with power to such arbitrator to report that in the event of the case being dealt with under Part II. of the Act, the London County Council ought to make a contribution in respect of the expense of dealing with the case (*g*).

(*b*) (1890) s. 4.
(*c*) See p. 13, *ante*.
(*d*) *I.e.* the metropolitan borough council in whose district the houses are. See p. 11, *ante*.
(*e*) (1890) s. 72.
(*f*) Formerly a Secretary of State; see p. 13, *ante*.
(*g*) (1890) s. 73 (1).

After considering the report the Board may decide that the case shall be dealt with either under Part I. or Part II., and the medical officer of health or other proper officer must forthwith make the representation necessary for proceeding in accordance with such decision (*h*).

Contents and the requisites of scheme.—The improvement scheme is to be accompanied by maps, particulars, and estimates (*i*).

It may exclude any part of the area as to which representation has been made, or include any neighbouring lands, if the authority think that such exclusion is expedient or such inclusion is necessary to make their scheme efficient (*k*). By the Act of 1890 this provision was limited to efficiency "for sanitary purposes," but these words are now repealed (*l*).

The scheme may provide for widening any existing approaches to the unhealthy area, or otherwise for opening out the same for the purposes of ventilation or health (*m*).

One other optional provision has been added by the new Act (*n*) which provides that the scheme "may provide for any other matter (including the closing and diversion of highways) for which it seems expedient to make provision with a view to the improvement of the area, or the general efficiency of the scheme."

The scheme must provide such dwelling accommodation, if any, for the working classes displaced by the scheme as hereinafter mentioned (*o*); must provide proper sanitary arrangements (*p*); and must distinguish the lands proposed to be taken compulsorily (*q*).

Further, the scheme may provide for the scheme or any part of it being carried out and effected by the person entitled to the first estate of freehold (*r*) in any property comprised in it, or with the concurrence of such person, under the superintendence and control of the local authority, and upon such terms and conditions to be embodied in the scheme

(*h*) (1890) s. 73 (2).
(*i*) (1890) s. 6 (1).
(*k*) *Ibid.*, s. 6 (1) (*a*).
(*l*) (1909) s. 23 (1).
(*m*) (1890) s. 6 (1) (*b*).
(*n*) (1909) s. 23 (1).
(*o*) (1890) s. 6 (1) (*c*), and p. 19, *post*.
(*p*) *Ibid.*, s. 6 (1) (*d*).
(*q*) (1890) s. 6 (2).
(*r*) See as to Scotland, p. 122, *post*.

as may be agreed upon by the local authority and such person (*s*).

Accommodation for working classes displaced by scheme.—As a general rule every scheme affecting an area in the County or City of London must provide for the accommodation of at least as many persons of the working class as may be displaced in suitable dwellings, situate, unless there be special reasons to the contrary, within the limits of the area or in its vicinity (*t*).

The rule is subject to two exceptions.

In the first place, if the Local Government Board are satisfied, on an application to authorise a scheme, that equally convenient accommodation can be provided for the displaced working classes at some other place than within the area or its vicinity, and that the necessary accommodation has been or is about to be forthwith provided, either by the local authority or other persons, the Board may authorise the scheme, and the requirements of the section will be deemed to have been complied with to the extent of the accommodation provided (*u*).

In the second place, the local authority may apply for a dispensation under the section, and if the officer conducting the local inquiry (*x*) reports that it is expedient, having regard to the special circumstances of the locality and the number of the working class dwelling within the area, and being employed within a mile thereof, that a modification should be made, the Local Government Board may dispense with the obligation to provide accommodation to such extent as the Board think expedient, but not exceeding one half of the persons displaced (*y*).

In a scheme relating to an area outside London, there is no obligation upon the local authority to make provision for the accommodation of the displaced working classes. But it is open to the Local Government Board to require the scheme to provide for the accommodation of such number of the displaced working classes in suitable dwellings to be erected

(*s*) (1890) s. 6 (3).
(*t*) (1890) s. 11 (1).
(*u*) *Ibid.*, s. 11 (1) (*a*).
(*x*) See p. 92, *post*.
(*y*) (1890) s. 11 (1) (*b*).

in such place or places either within or without the area as the Board on a report made by the officer conducting the local inquiry (*z*) may require (*a*).

For the purpose of providing accommodation for persons of the working class (*b*) displaced in consequence of (*c*) any improvement scheme, the local authority may appropriate any lands for the time being belonging to them which are suitable for the purpose, or may purchase by agreement any such further lands as may be convenient (*d*), and land acquired under Part III. of the Act may also be so used (*e*). Municipal corporations have power, with the consent of the Local Government Board, to convert corporate land into sites for workingmen's dwellings (*f*).

See later (*g*) for the extension of the above powers to the provision of shops, recreation grounds, etc.

Failure of local authority to make a scheme.—If the local authority, upon receipt of an official representation in favour of an improvement scheme, fail to pass any resolution relating thereto, or pass a resolution not to proceed with a scheme, they must, as soon as possible, send a copy of the representation, and their reasons for not acting upon it, to the Local Government Board. The Board may thereupon direct a local inquiry to be held, and a report to be made to them as to the correctness of the official representation, and any matters connected therewith, on which the Board may wish to be informed (*h*).

If on receiving the report the Board are satisfied that a scheme ought to have been made, either as to the whole area or some part of it, the Board may order the local authority to make such a scheme either under Part I. of the Act of 1890,

(*z*) See p. 92, *post*.
(*a*) (1890) s. 11 (2).
(*b*) For description, see p. 9, *ante*.
(*c*) The words "in consequence of" were substituted by the new Act for the word "by" in the principal Act ((1909) s. 46, and Sched. II.).
(*d*) (1890) s. 23.
(*e*) See (1900) s. 4, and p. 30, *post*.
(*f*) Municipal Corporations Act, 1882, s. 111.
(*g*) (1903), s. 11 (1), and p. 80, *post*.
(*h*) (1890) s. 10.

with which we are now dealing, or under Part II. of that Act (*i*), and to do all things necessary under the Housing Acts for carrying the scheme so made into execution (*k*).

The local authority must then accordingly make a scheme, or direct a scheme to be prepared, as if they had passed a resolution under s. 4 of the Act of 1890 (*l*), or under s. 39 of the same Act (*m*), and must do all things necessary for carrying the scheme into effect. If they fail to do so, the order of the Board may be enforced by mandamus (*n*).

Preliminary proceedings for confirmation of scheme.—The local authority having completed their scheme, they must next obtain its confirmation.

In order to obtain this they must publish during three consecutive weeks in some one and the same newspaper circulating within their district, an advertisement stating that such scheme has been made, the limits of the area comprised therein, and the place within such area or in the vicinity thereof where a copy of the scheme may be seen at all reasonable hours (*o*).

The authority must also "during the thirty days next following the date of the last publication of the advertisement" (*p*) serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of any lands proposed to be taken compulsorily, so far as such persons can be ascertained. The notice must state that such lands are proposed to be taken compulsorily for the purpose of an improvement scheme, and require from such owner or lessee (but not occupier) an answer whether he dissents or not from the taking (*q*).

Service of the notice is duly effected by delivery personally

(*i*) See p. 33, *post*.
(*k*) (1903) s. 4 (1). Not applicable to Scotland, see p. 117, *post*.
(*l*) p. 17, *ante*.
(*m*) p. 56, *post*.
(*n*) (1903) s. 4 (1). Not applicable to Scotland, see p. 117, *post*.
(*o*) (1890) s. 7 (*a*). The provision that this must be done during one of certain specified months was repealed by the Act of 1903, s. 5 (1). See as to the power of the Local Government Board to dispense with advertisements, p. 94, *post*.
(*p*) (1903) s. 5 (1).
(*q*) (1890) s. 7 (*b*).

to the person to be served, or, if he is abroad or cannot be found, to his agent, and if no agent can be found, by leaving the same on the premises. Or it may be served by leaving it, or sending it by post, addressed to the usual or last known place of abode of the person to be served (*r*).

So far as occupiers are concerned, a notice left at any house addressed to the occupier or occupiers without naming him or them is sufficient (*s*).

Confirmation of scheme.—Confirmation of the scheme is obtained in all cases by petition to the Local Government Board (*t*), praying that an order may be made confirming the scheme (*u*).

The petition must be accompanied by a copy of the scheme, and must state the names of the persons who have dissented from the taking of their lands, and must be supported by such evidence as the Board may from time to time require (*x*).

If, after consideration of the petition, and on proof that the proper preliminaries have been effected, the Board think fit to proceed, they must direct a local inquiry to be held in the area or its vicinity, for the purpose of ascertaining the correctness of the official representation as to the area and the sufficiency of the scheme, and any local objections to the scheme (*y*); and when the report upon the inquiry has been received, the Board may make an order declaring the limits of the area comprised in the scheme, and authorising its execution (*z*).

Formerly the order was a provisional order requiring confirmation by an Act of Parliament (*a*), but subsequently this confirmation was limited to certain cases (*b*). Now these

(*r*) (1890) s. 7 (*c*).
(*s*) *Ibid.*, s. 7 (*d*). See as to the power of the Local Government Board to prescribe forms, p. 94, *post*.
(*t*) Formerly in London to the Home Secretary; but see now p. 13, *ante*.
(*u*) (1890) s. 8 (1).
(*x*) (1890) s. 8 (2).
(*y*) (1890) s. 8 (3).
(*z*) (1890) s. 8 (4).
(*a*) (1890) s. 8 (6).
(*b*) (1903) s. 5 (2).

limits have been removed, and no Act of Parliament is necessary, even though land is to be taken compulsorily (*c*), and the order has the same effect as if confirmed by Act of Parliament (*d*).

The confirming order of the Board may be made either absolutely or with such conditions and modifications of the scheme as the Board may think fit, but no addition may be made to the lands proposed to be taken compulsorily, and a copy of the order must be served by the local authority in the manner and upon the persons in which and upon whom notices in respect of lands proposed to be taken compulsorily are required to be served, except tenants for a month or less period (*e*).

Any order made by the Board relating to the confirmation of a scheme may be made a rule of a superior court and enforced accordingly (*f*).

Costs of and incidental to confirming order.—When a person whose lands are proposed to be taken compulsorily has opposed the scheme, the Local Government Board may make such order as they think fit for the allowance of the reasonable costs, charges, and expenses which have been properly incurred by him in his opposition. They are deemed part of the expenses incurred by the local authority under this part of the Act (*g*).

All costs, charges, and expenses incurred by the Board in relation to the order, to such amount as the Board think proper to direct, are also to be deemed to be an expense incurred by the local authority under this part of the Act (*h*).

Payment of such costs, charges, and expenses, whether payable to the private person or the Board, is to be in such manner and at such times, and either in a lump sum or by instalments, as the Board may order. Interest at a rate not

(*c*) (1909) s. 24 (1).
(*d*) (1903) s. 5 (3). See p. 96, *post*, as to certain restrictions.
(*e*) (1890) s. 8 (5).
(*f*) (1890) s. 8 (9). Superior Court in England means the Supreme Court ((1890) s. 93). As to Scotland, see p. 124, *post*.
(*g*) (1890) s. 8 (7) (8). The order may be made a rule of the Supreme Court ((1890) s. 8 (9) ; s. 93). See as to Scotland, p. 124, *post*.
(*h*) (1890) s. 8 (8).

exceeding £5 per cent. per annum may be directed by the Board on any sum due and unpaid (*i*). The order may be made a rule of the Supreme Court (*k*).

Modification of authorised scheme.—An authorised scheme may be modified in details by the Local Government Board. This can be done when the local authority, on application made by them, can show to the satisfaction of the Board that an improvement can be made in the details of the scheme. The modification may consist in abandoning any part of the scheme which it may appear inexpedient to carry into execution, and also in amending or adding to the scheme in matters of detail in such manner as may appear expedient to the Board (*l*); but no modification respecting the provision of dwelling accommodation for persons of the working class can be made unless it is such as might have been inserted in the original scheme (*m*).

Section 3.—Execution of Scheme.

Powers and duty of authority to execute schemes.—When the improvement scheme has been confirmed by the Local Government Board, it is the duty of the local authority to take steps for purchasing (*n*) the lands required for the scheme, and otherwise for carrying the scheme into execution as soon as practicable (*o*). But it will not be necessary for them to acquire the lands if they exercise the power, referred to below, of arranging with the person entitled to the first estate of freehold in the land to execute the scheme.

The statutory powers which the local authority possess for this purpose are as follows:

(1) They may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land which they have purchased as they may think fit, and

(*i*) (1890) s. 8 (8).
(*k*) (1890) s. 8 (9), and s. 93. See as to Scotland, p. 124, *post*.
(*l*) (1909) s. 25.
(*m*) (1890) s. 15 (1).
(*n*) Under s. 20 of the Act of 1890. See p. 26, *post*.
(*o*) (1890) s. 12 (1), as amended by the provisions of later statutes dispensing with confirmation by Parliament. See p. 23, *ante*.

all the streets so laid out and completed thenceforth become public streets repairable by the same authority as the other streets in the district. But the local authority have no power themselves to undertake the rebuilding of the houses or the execution of any part of the scheme, unless they obtain the express approval of the Local Government Board (*p*).

(2) They may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees for the purpose and on condition that such purchasers or lessees will, as respects the land purchased or leased, carry the scheme into execution; and may in such grant or lease insert provisions binding the grantee or lessee to build thereon in a prescribed manner, and to maintain and repair the buildings, and prohibiting the division or alteration of the character of, or addition to, buildings without the consent of the authority, and for the re-vesting of the land in the authority, or their re-entry thereon, in the event of breach of the provisions (*q*). But the grant or lease of any part of the area which may be appropriated for the erection of working-class dwellings must impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and must make due provision for the maintenance of proper sanitary arrangements (*r*).

(3) They may engage with any body of trustees, society, or person, to carry the whole or any part of the scheme into effect upon such terms as the authority may think fit (*s*).

(4) They may, without acquiring the land, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold (*t*) in any land comprised in the scheme for the carrying of the scheme into effect by him in respect of such land (*u*).

Notice to occupiers.—When in the execution of a scheme the authority are taking any fifteen houses or more they are required, not less than thirteen weeks before doing so, to

(*p*) *Ibid.*, s. 12 (3).
(*q*) (1890) s. 12 (2).
(*r*) (1890) s. 12 (4).
(*s*) (1890) s. 12 (3).
(*t*) As to the equivalent of this in Scotland, see p. 122, *post*.
(*u*) (1890) s. 12 (6).

make known their intention by placards, and bills, and other general notices, placed in public view upon or within a reasonable distance of the houses; and the authority cannot take any such houses until they have obtained a certificate of a justice of the peace that it has been proved to his satisfaction that this provision has been complied with (*x*).

Compensation to tenant on removal.—In the event of a building or part thereof being purchased by the local authority, which is not closed by a closing order (*y*), but is occupied by a tenant under an agreement of tenancy for less than a year, the local authority, if they require the tenant to give up possession of the building so occupied for the purpose of pulling down the building, may make to the tenant a reasonable allowance on account of his expenses in removing (*z*).

Provisions for the acquisition of land.—It is not proposed in a treatise of this popular character to go into the details of the complicated provisions of the Lands Clauses Acts which are applicable to the subject, but it is necessary to give a broad outline of the provisions which regulate the acquisition of land for the purpose of a scheme for the improvement of an unhealthy area.

The Act of 1890 contains in its Second Schedule provisions with respect to the purchase and taking of lands in England otherwise than by agreement, and otherwise amending the Lands Clauses Acts. This Schedule will be found in the Appendix (*a*).

Except to the extent contained in the Schedule, the clauses of the Lands Clauses Acts "with respect to the purchase and taking of lands otherwise than by agreement" (*b*) are not to be applied. But with this exception the Lands Clauses Acts, as amended by the Schedule, are to regulate and apply to the purchase and taking of lands (*c*), and are to be deemed to form part of the Act of 1890, Part I., subject, however, to any

(*x*) (1890) s. 14.
(*y*) See p. 39, *post*.
(*z*) (1890) s. 78.
(*a*) Appendix B., p. 186, *post*.
(*b*) Ss. 16–68 of the Lands Clauses Consolidation Act, 1845.
(*c*) But see as to s. 133 thereof, relating to land tax and poor rate, p. 103, *post*.

provisions of the first part of the Act, including the two following provisions. These are: (1) that Part I. of the Act shall authorise the taking by agreement of any lands required for the execution of a confirmed scheme, but not the taking compulsorily of any lands other than those which by the confirmed scheme are to be taken compulsorily; and (2) that in construing the Lands Clauses Acts, and the Schedule above mentioned, this Part I. of the Act of 1890 is to be deemed the Special Act, and the local authority are to be deemed the promoters of the undertaking; and the period after which the powers of compulsory purchase or taking shall not be exercised shall be after three years from the date of the confirming order (*d*).

Effect of purchase on easements.—All rights of way, rights of laying down or of continuing any pipes, sewers, or drains on, through, or under any lands purchased, or part thereof, and all other rights or easements in or relating to such lands, or part thereof, are extinguished upon the purchase. All the soil of such ways, and the property in the pipes, sewers, or drains, vest in the local authority, but they must pay compensation to any persons or bodies of persons proved to have sustained loss thereby. The compensation is to be determined as in the case of the taking of lands, or as near thereto as possible (*e*). An improvement scheme may, however, with the consent of the persons entitled to the rights or easements, provide for any exceptions, restrictions, or modifications in the application to such rights or easements of this section, which will then take effect accordingly (*f*).

Assessment of compensation.—*Lands.*—The compensation payable in respect of lands (*g*), or any interests in lands, to be taken compulsorily is to be assessed according to the following principles (*h*):

The estimate of their value

(1) must be based upon the fair market value as estimated at the time of the valuation being made;

(*d*) (1890) s. 20.
(*e*) (1890) s. 22.
(*f*) (1909) s. 27.
(*g*) "Land" includes any right over land ((1890) s. 93).
(*h*) (1890) s. 21 (1).

(2) must have due regard to the nature and then condition of the property;

(3) must have regard to the probable duration of the buildings in their existing state, and to the state of repair thereof;

(4) must not include any additional allowance in respect of the compulsory purchase of an area or any part of an area in respect of which an official representation has been made (*i*);

(5) must not include any additional allowance in respect of the compulsory purchase of any lands included in a scheme, which, in the opinion of the arbitrator, have been so included as falling under the description of property which may be constituted an unhealthy area under the Act (*i*);

(6) must not include any addition to or improvement of the property made after the date of the publication under the Act of an advertisement stating the fact of the scheme having been made, except in a case where the addition or improvement was necessary to maintain the premises in a proper state of repair;

(7) must not, in the case of any interest acquired after the said date, make any separate estimate of the value thereof so as to increase the amount of compensation to be paid for the lands.

Subject to the statement in the footnote below, the foregoing rules will be applicable to lands compulsorily acquired whether those lands are within the unhealthy area or are lands neighbouring to it which have been included in the scheme (*k*).

Houses and premises.—In the case, however, of assessing compensation payable in respect of any house or premises situate within the unhealthy area, the following further considerations apply (*l*):

(*i*) The wording of paragraphs (4) and (5) excludes neighbouring lands, so that the proviso against the additional allowance does not apply to them. Compare the case of neighbouring lands included in a reconstruction scheme, p. 60, *post*.

(*k*) See previous note.

(*l*) (1890) s. 21 (2).

(1) Evidence may be given before the arbitrator to prove that the rental of the house or premises has been enhanced by reason of the same having been used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inhabitants.

If this be proved, the compensation, so far as it is based on rental, must be based on the rental which would have been obtainable if the house or premises were occupied for legal purposes, and only by the number of persons whom the house or premises were under all the circumstances of the case fitted to accommodate without overcrowding as above described.

(2) Evidence may be given to show that the house or premises are in such a condition as to be a nuisance within the Acts relating to nuisances (*m*), or are in a state of defective sanitation, or are not in reasonably good repair.

If proved, the compensation is to be the amount estimated as the value of the house or premises if the nuisance had been abated, or if they had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of doing such of these things as the case might require.

(3) Evidence may also be given that the house or premises are unfit, and not reasonably capable of being made fit, for human habitation.

If proved, the compensation is to be the value of the land, and of the materials of the buildings on it.

It is expressly provided (*n*) that the local authority may tender evidence before an arbitrator to prove the above facts, although they have not taken steps to remedy the defects or evils disclosed by the evidence.

Section 4.—Finance.

Expenditure and income.—The expenditure under Part I. of the Act of 1890, is defrayed out of "the Dwelling-house Improvement Fund (*o*).

(*m*) In London, the Public Health (London) Act, 1891; in other parts of England, the Public Health Acts, and any local Acts which relate to nuisances. See (1890) s. 2. See as to Scotland, p. 116, *post*.

(*n*) (1909) s. 29.

(*o*) (1890) s. 24 (1).

This fund is formed out of the receipts of the local authority under this part of the Act (*o*), and to the account of the fund may be carried any such money or produce of any property, as is legally applicable to purposes similar to the purposes of this part of the Act. If there is any doubt as to whether in a particular case the purposes are similar, the Local Government Board are to decide it, and their decision is conclusive (*p*).

The moneys necessary to establish the fund, or to supply the deficiency from time to time between expenditure and receipts, are to be supplied out of local rates, or out of moneys borrowed as provided (*q*). Any statutory limit imposed on or in respect of local rates is not to apply to any rate levied for the purpose of defraying expenses under this part of the Act (*r*).

No deficiency in the fund can be supplied out of borrowed money unless the deficiency arises in respect of money required for purposes to which borrowed money is, in the opinion of the Local Government Board, properly applicable (*s*).

Care is to be taken that, as far as practicable, all expenditure shall ultimately be defrayed out of the property dealt with; and any balances of profit made by the authority under this part of the Act, are to be applicable to any purposes to which the local rate is for the time being applicable (*t*).

Where land acquired under Part III. of the principal Act is appropriated for the purpose of re-housing persons displaced by a council under the powers of any other part of the Act or of any other enactment, the receipts and expenditure in respect of that land (including all costs in respect of its acquisition and laying out), and of any buildings erected thereon, may be treated as receipts and expenditure under that part or enactment, but they must be accounted for under a separate head (*u*).

Powers of borrowing—Local authorities may borrow

(*p*) (1890) s. 24 (5).
(*q*) (1890) s. 24 (2), and see p. 31, *post*. As to local rates, see p. 12, *ante*.
(*r*) (1890) s. 24 (4).
(*s*) (1909) s. 30.
(*t*) (1890) s. 24 (3).
(*u*) (1900) s. 4.

the necessary money on the security of the local rate (*x*); and the Public Works Loan Commissioners may, on the recommendation of the Local Government Board, lend to any local authority any necessary money on the same security (*y*).

Outside London (*z*).—Urban councils have the same powers of borrowing as they have under and for the purposes of the Public Health Acts (*a*). The maximum period for which money may be borrowed for the purpose is eighty years, and not sixty as provided in s. 234 of the Public Health Act, 1875 (*b*). Money so borrowed is not to be reckoned as part of the debt of the local authority for the purposes of the limitation on borrowing under s. 234 (2) and (3) of the Public Health Act, 1875 (*c*).

In London.—For the purpose of such borrowing the London County Council may, with the assent of the Treasury, create consolidated stock under the Metropolitan Board of Works Loans Act, 1869 to 1871. All money required for the payment of dividends on and redemption of the stock must be charged to the special county account to which the expenditure for the purposes of this part of the Act is chargeable (*d*).

The maximum period for which money may be borrowed is extended from sixty to eighty years (*e*).

The Common Council of the City of London may borrow the necessary money on the credit of the local rates (*f*), and may mortgage any such rate or rates for securing the repayment with interest. For the purposes of such mortgages the clauses of the Commissioners Clauses Act, 1847, with respect to mortgages are incorporated. Enforcement of payment of

(*x*) (1890) s. 25 (1). As to the meaning of "local rate," see p. 12, *ante*.

(*y*) (1890) s. 25 (5). See further as to the terms of such loans, Chap. V., p. 106, *post*.

(*z*) As to Scotland, see p. 118, *post*.

(*a*) (1890) s. 25 (4). See Public Health Act, 1875, ss. 233-243.

(*b*) (1903) s. 1 (1). Not applicable to Scotland, see p. 117, *post*.

(*c*) (1903) s. 1 (2). Not applicable to Scotland, see p. 117, *post*.

(*d*) (1890) s. 25 (2). See also London County Council (Money) Act, 1896, 59 & 60 Vict. ch. ccxiv., s. 13 (iv.).

(*e*) (1903) s. 15, amending Metropolitan Board of Works (Loans) Act, 1869, s. 27.

(*f*) For the meaning of "local rate," see p. 12, *ante*.

arrears of principal and interest may be made by appointing a receiver (*g*).

Section 5.—Powers for compelling Performance of Duties.

Procedure or failure to carry out scheme.—The new Act empowers the Local Government Board, when it appears that the local authority have failed to perform their duty of carrying out an improvement scheme, to make an order requiring the authority to remedy the default, and to carry out any works or do any other things necessary for the purpose under the Housing Acts within a time fixed by the order (*h*) ; and the order may be enforced by mandamus (*i*).

The original method of effecting a completion of the scheme on the failure by a local authority stands unrepealed, and must therefore be noticed, although in the face of the new method it is not likely to be of practical utility.

It is provided by the Act of 1890 (*k*) that if within five years after the removal of any buildings on the land set aside by any scheme as sites for working-men's dwellings (*l*), the local authority fail to sell or let such land for the purposes of the scheme, or fail to make arrangements for the erection of the dwellings, the Local Government Board may order the said land to be sold by public auction or public tender, with power to fix a reserve price, subject to the conditions imposed by the scheme, and to any authorised modifications (*m*), and to a special condition on the part of the purchaser to erect upon the land dwellings for the working classes, in accordance with plans to be approved by the local authority, and subject to such other reservations and regulations as the Board may deem necessary.

(*g*) (1890) s. 25 (3).
(*h*) (1909) s. 11 (1).
(*i*) *Ibid.*, s. 11 (2). See p. 20, *ante*, for the power of the Board to compel an authority to make a scheme.
(*k*) s. 13.
(*l*) Such clearance being one of the few things that the authority can themselves do under the Act, without the express approval of the Local Government Board. See p. 24, *ante*.
(*m*) See p. 24, and (1890) s. 15 (1).

CHAPTER III.

PROVISIONS RELATING TO UNHEALTHY DWELLING-HOUSES.

SECTION 1.—PRELIMINARY AND GENERAL.

Scope of chapter.—This chapter deals with the provisions contained in Part II. of the Act of 1890, as amended by subsequent legislation, including the new Act of 1909.

The provisions of Part II. may be conveniently divided into:

(1) Those which relate to the closing and demolition of unhealthy dwelling-houses;

(2) Those which relate to the removal of buildings not in themselves unfit for habitation but obstructive of the good sanitary conditions of neighbouring houses;

(3) Those which relate to reconstruction schemes.

This division is adopted in sections 2, 3, and 4 of the chapter.

Local authorities under Part II.—See as to these, *ante* (*a*).

Definitions.—For the purposes of Part II. of the Act of 1890, and of this chapter, the following words have the meaning respectively attached to them, unless the context otherwise requires.

Street.—This includes any court, alley, street, square, or row of houses (*b*).

Dwelling-house.—This includes, not only a dwelling-house as ordinarily understood, but also any yard, garden, out-houses, and appurtenances belonging thereto or usually enjoyed therewith, and also includes the site of the dwelling-

(*a*) p. 11. (*b*) (1890) s. 29.

house as here defined (*c*). The new Act of 1909 has repealed the words which formerly preceded the word "includes," namely, "means any inhabited buildings and." The object is apparently to extend the definition to buildings which are not actually inhabited or occupied (*d*).

Owner.—This expression now has the meaning given to it by the Lands Clauses Act, but in addition includes all lessees or mortgagees (*e*) of any premises required to be dealt with under this part of the Act, except persons holding or entitled to the rents and profits of such premises under a lease the original term whereof is less than twenty-one years (*f*).

The Lands Clauses Consolidation Act, 1845, provides that where under the provisions of that or the Special Act, or any Act incorporated therewith, any notice is required to be given to the owner of any lands, or where any act is authorised or required to be done with the consent of such owner, the word "owner" is to be understood to mean any person or corporation who, under the provisions of that or the Special Act, would be enabled to sell and convey lands to the promoters of the undertaking (*g*); and such persons enabled to sell are described to be all parties being seised, possessed of, or entitled to lands, or any estate or interest therein, and particularly corporations, tenants in tail or for life, married women seised in their own right or entitled to dower, guardians, committees of lunatics and idiots, trustees or feoffees in trust for charitable or other purposes, executors and administrators, and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest (*h*).

If an owner of a dwelling-house is not the person in receipt of the rents and profits thereof, he may give notice of his

(*c*) (1890) s. 29.
(*d*) (1909) s. 49 (1).
(*e*) In Scotland, see p. 122, *post.*
(*f*) (1909) s. 49 (2). This repeals the definition in the Act of 1890, s. 29. The concluding words were formerly: "for a term of years of which twenty-one years do not remain unexpired."
(*g*) s. 3.
(*h*) s. 7.

ownership to the local authority, and thereupon notices of any proceedings taken by them in respect of such house under Part II. of the Act of 1890 must be given to him (*i*).

Closing order.—This is the term given by the new Act of 1909 to an order of the local authority made under that Act prohibiting the use of a dwelling-house for human habitation (*k*).

Remedies for breaches of covenant protected.—Nothing in Part II. of the Act of 1890 is to prejudice or interfere with the rights or remedies of any owner for the breach, non-observance, or non-performance of any covenant or contract entered into by a tenant or lessee in reference to any dwelling-house affected by an order of the local authority. If an owner is obliged to take possession of a dwelling-house in order to comply with any such order, he does not thereby prejudice his right to avail himself of any breach, non-observance, or non-performance occurring previous to his so taking possession (*l*).

Service of notices under Part II.—An owner may be served with a notice under Part II. in either of the following ways:

(1) By sending the notice by post in a registered letter addressed to the owner or his agent at his usual or last known residence or place of business (*m*);

(2) By giving it to him, or for him, to some inmate of his residence or place of business if it is within the district of the authority and the owner is known (*n*);

(3) By leaving the notice addressed to the owner with some occupier of the dwelling-house in respect of which the notice is served, in cases where the owner or his residence or place of business is not known and cannot after diligent inquiry be found (*o*);

(*i*) (1890) s. 47 (1). As to Scotland, see p. 124, *post*.
(*k*) (1909) s. 17 (2).
(*l*) (1890) s. 48.
(*m*) (1903) s. 13 (1).
(*n*) (1890) s. 49 (1). This is no longer obligatory: see (1903) s. 13 (1).
(*o*) *Ibid.*, s. 49 (2).

(4) By putting it up on some conspicuous part of such dwelling-house where there is no occupier and the owner or his residence or place of business is unknown (*p*).

Notice served on the owner's agent is a good service on the owner (*q*).

It is sufficient to describe a person as the "owner" of a dwelling-house without name or further description (*r*).

Preventing execution of Part II.—The occupier of a dwelling-house who prevents the owner, or the owner or occupier who prevents the medical officer of health, or the officers, agents, servants, or workmen of such owner or officer from carrying into effect any of the provisions of Part II. in respect of a dwelling-house, after notice of the intention so to do has been given to such owner or occupier, may be ordered by a court of summary jurisdiction to permit to be done on the premises all such things as may be necessary for the above purpose (*s*); and if at the expiration of ten days from the service of the order he fails to comply with it, he is liable on summary conviction to a fine not exceeding £20 for every day during which the failure continues. If it is the occupier who is in fault, the owner is not liable to the fine, unless he assents to the failure (*t*).

Section 2.—Closing and Demolition of Dwelling-houses Unfit for Habitation.

Duties to inspect and to report unhealthy dwellings.—It is the duty of every local authority (*u*) to cause to be made from time to time inspection of their district, in order to ascertain whether any dwelling-house (*v*) therein is in a state so dangerous or injurious to health as to be unfit for human habitation (*x*). For this purpose it is their duty, and the duty

(*p*) *Ibid.*, s. 49 (2).
(*q*) (1890) s. 49 (3).
(*r*) (1890) s. 50.
(*s*) (1890) s. 51 (1).
(*t*) (1890) s. 51 (2).
(*u*) For definition, see p. 11, *ante*.
(*v*) See p. 38, *ante*.
(*x*) (1909) s. 17 (1), repealing but so far re-enacting (1890) s. 32. For the meaning of "unfit for human habitation," see p. 38, *post*. As to failure to perform the duty, see p. 69, *post*.

of every officer of the local authority, to comply with such regulations and to keep such records as may be prescribed by the Local Government Board (*y*).

It is the duty of the medical officer of health of every district to represent in writing (*z*) to the local authority of that district any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation (*a*). The fact that no complaint has been made as next mentioned does not excuse him from inspecting any dwelling-house and making his representation (*b*).

Moreover, if any four or more householders living in or near to any street (*c*) complain in writing to the medical officer of health of the district that any dwelling-house in or near that street is in such a condition as above described, the medical officer must forthwith inspect the house, and transmit the complaint to the local authority, together with his opinion thereon. If he is of opinion that the dwelling-house is in such condition, he must also represent the same to the local authority (*d*).

In a rural district a parish council have the same power of making the like complaint as the before-mentioned householders, and without prejudice to the rights of the latter (*e*).

If within three months after receiving the before-mentioned complaint and opinion or representation, the local authority (not being in the administrative county of London (*f*), or not being a rural council in any other county), declines or neglects to take any proceedings to put this part of the Act in force, the householders who signed such complaint may petition the Local Government Board for an inquiry. After holding the inquiry the Board may order the local authority to proceed under this part of the Act, and such order is binding upon them (*g*).

In the case of default by local authorities in London, or by

(*y*) (1909) s. 17 (1).
(*z*) (1890) s. 79 (2).
(*a*) (1890) s. 30.
(*b*) (1890) s. 31 (1).
(*c*) For definition, see p. 33, *ante*.
(*d*) (1890) s. 31 (1).
(*e*) Local Government Act, 1894, s. 6 (2).
(*f*) This expression includes the City of London ((1890), s. 93).
(*g*) (1890) s. 31 (2).

rural district councils, special provisions apply (*h*), which are dealt with later (*i*).

Duty to report to county council.—It is the duty of every metropolitan borough council, and of every rural district council, to whom or to whose medical officer a representation, complaint, or information is made or given respecting any dwelling-house being in a state so dangerous or injurious to health as to be unfit for human habitation, to forthwith forward to the county council of the county in which the dwelling-house or building is situate, a copy of such representation, complaint, or information, and to report from time to time to the county council such particulars as the county council may require respecting any proceedings taken by the local authority in respect of them (*k*).

It is the duty also of the clerk of a rural district council to forward to the medical officer of health of the county (*l*) a copy of such representation, complaint, or information (*m*).

"Unfit for human habitation."—The unfitness for human habitation seems to be limited to cases in which the unfitness arises from such a condition of the house as renders it dangerous to health or injurious to health. The expression in this part of the Act is always used in connection with this state of things, and it would therefore seem that a dwelling-house in a ruinous condition from a structural, but not a sanitary, standpoint, could not be dealt with under these provisions.

Certain conditions, however, are expressly declared to be deemed to render premises unfit for human habitation within the meaning of these and other provisions of the Housing Acts. For example, back-to-back houses which are commenced to be erected after the passing of the Act of 1909 (*n*) are, subject to certain limitations, to be so deemed (*o*).

(*h*) (1890) s. 45 (2).
(*i*) See (1890) s. 45, p. 63, *post*: "Powers of county councils."
(*k*) (1890) s. 45 (1). Not applicable to Scotland ((1890), s. 96 (16)).
(*l*) As to the obligation of the county council to appoint such officer, see p. 100, *post*.
(*m*) (1909) s. 69 (1). For the penalty for not doing so, see p. 102, *post*.
(*n*) *I.e.* December 3, 1909.
(*o*) (1909) s. 43; and see p. 112, *post*.

Again, for the purpose of the section relating to closing orders (*p*), a room which after July 1, 1910, is habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, is to be deemed to be a dwelling-house so dangerous or injurious to health as to be unfit for human habitation under either of the following conditions :

(1) If it is not on an average at least seven feet in height from floor to ceiling ; or

(2) If it does not comply with such regulations as the local authority, with the consent of the Local Government Board, may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation (*q*).

By the Public Health (London) Act, 1891 (*r*), an occupied dwelling-house without proper and sufficient supply of water is a nuisance, and is to be deemed unfit for human habitation, so that a closing order under that Act may be made in respect of it. The fact that it is for the purpose of that Act to be so deemed would not of itself suffice to bring it within the provisions of the Housing Acts, but it would be some assistance and justification for saying that it is within these Acts as being in a state so dangerous or injurious to health as to be unfit for human habitation.

Power and duty of authority to make closing orders (*s*). When a local authority receive a representation from the medical officer of health (*t*), or from any of their officers, or receive other information that any dwelling-house in their district is in a state so dangerous or injurious to health as to be unfit for habitation, and it appears that such representation or information is accurate, they must make an order, called a

(*p*) (1909) s. 17 (7).

(*q*) (1909) s. 17 (7). If the local authority fail to make the regulations the Local Government Board may make them : see p. 94, *post*. See p. 41, *post*, as to the effect of a closing order made in respect of underground rooms.

(*r*) s. 48.

(*s*) Any reference in the Housing Acts to a closing order is to be construed as a reference to a closing order under the Act of 1909 ((1909) s. 47 (2)).

(*t*) See p. 13, *ante*.

"closing order," prohibiting the use of the dwelling-house for human habitation until in their judgment it is rendered fit for that purpose (*u*).

This is an entirely new power, and a very far-reaching one. Previously to the new Act the authority could only proceed under the nuisance sections of the various Public Health Acts in England and Scotland, by proceedings in courts of summary jurisdiction for penalties and closing orders (*x*).

The local authority (not being a borough as defined by the Municipal Corporations Act, 1882) must also proceed in like manner when they receive from the county council, in whose district they are, a representation made to the county council by the medical officer of health of the county (*y*).

If such representation be made to any local authority in the county of London (*z*), and the local authority resolve that the case of such dwelling-houses is of such general importance to the county of London that it should be dealt with by a scheme under Part I. of the principal Act, such resolution may be submitted to the Local Government Board (*a*). The Board may appoint an arbitrator, and direct him to hold a local inquiry, and to report to the Board as to whether, having regard to the size of the area, to the number of houses to be dealt with, to the position, structure, and sanitary condition of such houses, and of the neighbourhood thereof, and to the provisions of Part I. of the principal Act, the case is wholly or partially of any and what importance to the county of London, with power to such arbitrator to report that in the event of the case being dealt with under Part II. of the Act, the London County Council ought to make a contribution in respect of the expense of dealing with the case (*b*).

After considering the report the Board (*c*) may decide that

(*u*) (1909) s. 17 (2). As to notice of, and appeal from, the closing order, see p. 42, *post*. As to closing orders in respect of underground sleeping-rooms, see pp. 41 and 44, *post*.
(*x*) (1890) s. 32, now repealed (1909) s. 75, and Sched. VI.
(*y*) (1890) s. 52. See as to medical officer of health, p. 13, *ante*.
(*z*) Excluding the City ((1890) s. 93).
(*a*) Formerly a Secretary of State. See p. 13, *ante*.
(*b*) (1890) s. 73 (1).
(*c*) Formerly the Secretary of State. See p. 13, *ante*.

the case shall be dealt with either under Part II. or under Part I., and the medical officer of health or other proper officer must forthwith make the representation necessary for proceedings in accordance with such decision (*d*).

Duty to report to county council.—When a closing order has been made by a metropolitan borough council, or by a rural district council, it is their duty to forward to the county council in whose district the building lies, a copy of the closing order, and to report from time to time to the county council such particulars as the county council may require respecting any proceedings taken by the local authority with reference to the matter (*e*).

Closing underground sleeping-rooms.—Where a room is, after July 1, 1910, habitually used as a sleeping place, and is of the description previously described (*f*), a closing order may be made in respect of it, but such closing order is not to prevent the room from being used for purposes other than a sleeping place (*g*).

Protection of owners.—There may be several owners of a dwelling-house within the definition (*h*), and there may be an owner who is not the person in receipt of the rents and profits. Such owner may easily be prejudiced by the default of other persons in the execution of the works necessary to be executed to satisfy the requirements of the local authority under a closing order. Power is therefore given to such owner to apply to a court of summary jurisdiction, after giving notice of the application to the local authority (*i*) ; and upon being satisfied as to the above facts, the court may make an order empowering the applicant forthwith to enter on the dwelling-house and to execute the necessary work within a time to be fixed by the order. Where it seems just to do so, the court may make a like order in favour of any other owner (*k*).

(*d*) (1890) s. 73 (2).

(*e*) (1890) s. 45 (1). See as to the duty of the clerk of a rural district council to forward such information to the medical officer of health of the county, p. 102, *post.*

(*f*) p. 39, *ante.* (*g*) (1909) s. 17 (7).

(*h*) See definition of "owner," p. 34, *ante;* and as to the right of an owner not in receipt of rents and profits to give notice of his ownership to the local authority, see *ibid.*

(*i*) (1890) s. 47 (4).

(*k*) (1890) s. 47 (2). See as to Scotland, p. 124, *post.*

The power of the court to enlarge the time allowed by the closing order for the execution of the works is abolished (*l*).

Terminating the closing order.—When the local authority are satisfied that the dwelling-house has been rendered fit for habitation they may determine the closing order (*m*).

Appeal from closing order or from refusal to determine it.—Notice of the closing order must be served forthwith on every owner of the dwelling-house in respect of which it is made (*n*). If aggrieved by the order, the owner may appeal to the Local Government Board within fourteen days after the service of the order on him (*o*).

The principal Act gave an appeal to quarter sessions from any order of a local authority under Part II. of the Act (*p*). This section is not repealed, but an appeal to quarter sessions is declared to be applicable only if the person aggrieved "is not entitled to appeal to the Local Government Board against the order" (*q*). Hence no appeal against a closing order lies to the quarter sessions.

A like appeal to the Local Government Board is given from the refusal of the authority to determine the closing order when it is alleged that they ought to be satisfied that the dwelling-house has been rendered fit for habitation. In this case the fourteen days date from the refusal of the application to determine the order (*r*).

In both these cases of appeal, the Local Government Board cannot dismiss the appeal without having first held a public local inquiry (*s*).

The Local Government Board have power to require the appellant to deposit a sum to cover the costs of the appeal (*t*).

(*l*) (1909) s. 21, repealing to this extent (1890) s. 47 (3).
(*m*) (1909) s. 17 (6). As to appeal from refusal, see *infra*.
(*n*) Including an owner not in receipt of the rents and profits if he has given notice of his ownership: see p. 34, *ante*.
(*o*) (1909) s. 17 (3).
(*p*) (1890) s. 35 (1), subject to the provisoes in sub-s. (2).
(*q*) (1909) s. 46, and Sched. II. As to Scotland, see p. 116, *post*.
(*r*) (1909) s. 17 (6).
(*s*) (1909) s. 39 (1). As to stating a special case on points of law, see *ibid.*, and p. 92, *post*.
(*t*) (1909) s. 39 (3). See more particularly as to appeals, p. 91, *post*.

Enforcing the closing order.—When a closing order has become operative, the local authority must proceed to enforce it. This they must do by serving notice of the order on every occupying tenant of the dwelling-house to which the order relates. Within the time to be specified in the notice, not being less than fourteen days after the service of the notice, the tenant must obey the order, and he and his family must cease to inhabit the dwelling-house. In default he is liable on summary conviction to be ordered to quit the dwelling-house within such time as may be specified in the order (*u*).

The closing order does not become operative until either the fourteen days allowed for giving notice of appeal have elapsed without any appeal having been made, or the appeal has been determined against the appellant or abandoned; and nothing can be done under the order until it has become operative (*x*).

If the tenant does not obey the order and go out, possession of the house may be obtained (without prejudice to the enforcement of the penalty(*y*)), whatever may be the value or rent of the house, by or on behalf of the owner or local authority, either under sections 138–145 of the County Courts Act, 1888, or under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, and in either case may be obtained as if the owner or local authority were the landlord (*z*). The expenses incurred by a local authority in so doing may be recovered from the owner of the dwelling-house as a civil debt under the Summary Jurisdiction Acts (*a*).

Compensation for removal.—The tenant having been put to the expense of removing, the local authority may make to him a reasonable allowance on account of such expense. The amount may be determined by the local authority with the consent of the owner of the dwelling-house. If he fails to consent to the sum determined it may be fixed by a court of summary jurisdiction. In either case the amount when fixed is recoverable by the local authority from the owner as a civil

(*u*) (1909) s. 17 (4).
(*x*) (1909) s. 39 (2), and see p. 92, *post*.
(*y*) These words are not repealed, but as the Act of 1909 now stands there is no penalty provided. Clause 17 (4) of the Bill did provide a penalty, but this was struck out and an order to quit was substituted.
(*z*) (1903) s. 10. Not applicable to Scotland, see p. 117, *post*.
(*a*) *Ibid.*

debt in manner provided by the Summary Jurisdiction Acts (*b*).

But this allowance cannot be made where the dwelling-house has been made unfit for habitation by the wilful act or default of the tenant or of any person for whom, as between himself and the owner or landlord, he is responsible (*c*).

Underground sleeping-rooms.—If the occupier of an underground sleeping-room in respect of which a closing order has been made (*d*) fails to comply with the order, an order so to comply may, on summary conviction, be made against him (*e*).

Power and duty of authority to make demolition orders (*f*).—If a closing order has remained operative for three months the local authority are required to consider the question of the demolition of the dwelling-house with a view to making a demolition order.

Every owner (*g*) of the dwelling-house is entitled to be heard when the question is considered, and for that purpose it is necessary that every owner should be served with a notice of the time and place at which the consideration will be made. There must be at least one month between the time fixed for the consideration and the date of the service of the notice (*h*).

The authority must order the demolition of the building if upon such consideration they are of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, or that the continuance of any building being, or being part of, the dwelling-house is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses (*i*).

Postponement of operation.—The operation of the demolition

(*b*) (1909) s. 17 (5).
(*c*) *Ibid.*
(*d*) See p. 41, *ante.*
(*e*) (1909) s. 17 (7). Presumably this will be an order to quit under s. 17 (4). See p. 43, *ante.*
(*f*) Any reference in the Housing Acts to a demolition order is to be construed as a reference to such an order under the Act of 1909 ((1909) s. 47 (2)).
(*g*) For definition, see p. 34, *ante.*
(*h*) (1909) s. 18 (1).
(*i*) (1909) s. 18 (2).

order may be postponed by the local authority, if any owner (*k*) undertakes to execute forthwith the works necessary to render the dwelling-house fit for human habitation, and the local authority consider that it can be so rendered fit. The postponement may be for such time, not exceeding six months, as the local authority think sufficient for the purpose of giving an owner an opportunity of executing the necessary works (*l*).

Protection of other owners.—The interests of other owners (*m*) of a dwelling-house who might be prejudiced by the default of an owner to comply with the requirements of the local authority, are protected. Such other owners have the same right of applying to a court of summary jurisdiction for an order to enable them to enter the property and execute the works as they possess in the case of default under a closing order (*n*). The power of the court to enlarge the time mentioned in the order for demolition no longer exists (*o*).

Underground sleeping-rooms.—Where a closing order has been made in respect of an underground sleeping-room (*p*), it is not to be treated as a closing order upon which a demolition order can be based (*q*). That is to say, the dwelling-house cannot be ordered to be demolished simply because the closing order made in respect of such room has not been complied with. The proper and only course to pursue is to get rid of the occupier (*r*).

Notice of demolition order and appeal.—Notice of the demolition order must be served on every owner of the building in respect of which it is made. Any owner aggrieved by the order may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after the

(*k*) See as to an owner who is not in receipt of the rents and profits, p. 34, *ante*, and *infra*.
(*l*) (1909) s. 18 (3).
(*m*) See definition, p. 34, *ante*, and as to owners not in receipt of the rents and profits, see *ibid.*
(*n*) (1890) s. 47 (2), and see p. 41, *ante*. See as to Scotland, p. 124, *post*.
(*o*) (1909) s. 21, repealing to this extent (1890) s. 47 (3).
(*p*) See p. 41, *ante*.
(*q*) (1909) s. 17 (7).
(*r*) See p. 43, *ante*.

order is served on him (*s*). An appeal does not lie in this matter to the quarter sessions (*t*).

Powers of county councils in certain cases when local authority in default.—The power of county councils to intervene where metropolitan borough councils or rural district councils are in default in the exercise of their powers of closing and demolition will be discussed later (*u*).

Execution of demolition order.—Within three months after the demolition order has become operative (*x*), the owner must proceed to take down and remove the building. If he fails the local authority must do so, and must sell the materials, paying over to the owner the balance of any money there may be after deducting the expenses incident to the taking down and removal (*y*).

If the proceeds of sale are not sufficient to cover the expenses incident to the taking down and removal of the building, the local authority may recover the deficiency from the owner as a civil debt in manner provided by the Summary Jurisdiction Acts, or under the provisions of the Public Health Acts relating to private improvement expenses (*z*).

Use of site.—Where a site has been cleared under the execution of a demolition order (*a*), no house or other building or erection which would be dangerous or injurious to health may be erected on all or any part of the site. If it is, the local authority (*b*) may at any time order the owner to abate it, and if he does not do so, they may at the expense of the owner abate or alter the same (*c*).

(*s*) (1909) s. 18 (4). As to the effect of a notice of appeal, and generally as to appeals, see p. 91, *post*.

(*t*) (1890) s. 35 (1), as amended by (1909) s. 46, and Sched. II. See p. 92, *ante*. As to Scotland, see p. 116, *post*.

(*u*) See p. 63, *post*.

(*x*) The words "the order becomes operative" were by the new Act substituted for the words "service of the order" (1909) s. 46, and Sched. II. See p. 92, *post*, as to when an order becomes operative.

(*y*) (1890) s. 34 (1).

(*z*) (1903) s. 9. See Public Health Act, 1875, ss. 213–215, 232, and 257. See as to Scotland, p. 123, *post*.

(*a*) See *supra*.

(*b*) For definition, see p. 11, *ante*.

(*c*) (1890) s. 34 (2).

Charging order.—Where an owner has completed in respect of any dwelling-house any works in accordance with the order of a local authority under this part of the Act, he may apply to the authority for a charging order. To obtain this he must produce to the local authority the certificate of their surveyor or engineer that the works have been executed to his satisfaction, and also the accounts of and vouchers for the costs, charges, and expenses of the works. If the local authority are satisfied in these particulars, and of the costs of obtaining the charging order which have been properly incurred, they must make an order accordingly, charging on the dwelling-house an annuity to repay the amount (*d*).

One of the sub-sections (*e*) requires the charge to be according to the Form in the Fifth Schedule to the Act, but this Schedule is repealed (*f*) although the sub-section is not. The Local Government Board, however, have power to prescribe the form of all documents (*g*).

The amount of the annuity is to be £6 for every £100 of the amount, and in the same proportion for any less sum. The annuity commences from the date of the order, and is payable for a term of thirty years to the owner named in the order, his executors, administrators, or assigns (*h*), and is recoverable by the same means and in the like manner as if it were a rentcharge granted by deed out of the dwelling-house by the owner of such house (*i*).

Incidence of charge.—The charge so created is a charge on the dwelling-house specified in the order with priority over all existing and future estates, interests, and incumbrances, with the exception of quitrents and other charges incident to tenure, tithe commutation rentcharge (*k*), any charge created under any Act authorising advances of public money (*l*), and charges on the dwelling-house created or arising under any provisions of the Public Health Acts, or under any provision in any

(*d*) (1890) s. 36 (1). As to Scotland, see p. 118, *post*.
(*e*) (1890) s. 36 (4).
(*f*) (1909) s. 75, and Sched. VI.
(*g*) (1909) s. 41 (1), and p. 94, *post*.
(*h*) (1890) s. 36 (2). See as to Scotland, p. 121, *post*.
(*i*) *Ibid.*, s. 36 (3).
(*k*) As to Scotland, see p. 124, *post*.
(*l*) (1890) s. 37 (1).

local Act authorising a charge for recovery of expenses incurred by a local authority (*m*).

If there be more than one charge created under Part II. of the Act of 1890, the charges, as between themselves, take priority according to their respective dates (*n*).

The charging order is conclusive evidence that all the required proceedings with reference to or consequent on the obtaining of the order, or making of the charge, have been duly taken, and that the charge has been duly created and is valid (*o*). It requires registration when the dwelling-house is in the area to which the statutes relating to the registration of land in Middlesex apply, or is in Yorkshire, as if the charge were made by deed by the absolute owner of the dwelling-house (*p*).

Certified copies of the charging order and of the certificate of the surveyor or engineer, and of the accounts as passed by the local authority, must within six months after the date of the order be deposited with the clerk of the peace of the county in which the dwelling-house is situate, and be by him filed and recorded. The copies are to be certified as true by the clerk of the local authority (*q*).

A charge may be transferred from time to time just as a mortgage (*r*) or rentcharge may be transferred. It may be in the prescribed or any other convenient form (*s*).

Redemption of annuity.—Any owner of, or other person interested in, the dwelling-house on which an annuity has been so charged may at any time redeem the annuity by paying to the person entitled to the annuity such sum as they may agree upon or, in default of agreement, as may be fixed by the Local Government Board (*t*).

Section 3.—Removal of Obstructive Buildings.

Obstructive buildings.—A building is an obstructive building subject to the provisions of this part of the Act (*u*)

(*m*) (1909) s. 20. (*n*) (1890) s. 37 (1).
(*o*) (1890) s. 37 (2).
(*p*) *Ibid.*, s. 37 (3). As to Scotland, see p. 118, *post*.
(*q*) (1890) s. 37 (4).
(*r*) As to Scotland, see p. 122, *post*.
(*s*) (1890) s. 37 (5). The Local Government Board may prescribe the form ((1909) s. 41 (1)).
(*t*) (1909) s. 19. (*u*) *I.e.* Part II. of the Act of 1890.

which, although not in itself unfit for human habitation (*x*), is so situate that by reason of its proximity to or contact with any other buildings it (1) stops or impedes (*y*) ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or (2) prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings (*z*).

Representations as to obstructive buildings.—It is the duty of the medical officer of health on discovering an obstructive building to represent in writing (*a*) to the local authority (*b*) the particulars relating to such building, stating that in his opinion it is expedient that it should be pulled down (*c*).

Four or more inhabitants may make the like representation (*d*), and so may a parish council in a rural district, and this without prejudice to the rights of the inhabitants (*e*).

The representation may also come to a local authority (not being a borough as defined by the Municipal Corporations Act, 1882) from the county council, in whose district they are, and which representation has been made to the county council by the medical officer of health of the county (*f*).

Duty to report to county council.—It is the duty of metropolitan borough councils and of rural district councils to forward a copy of such representation to the county council within whose district the offending building lies, and to report to the county council from time to time such particulars as the county council may require respecting any proceedings taken by the local authority on such representation (*g*).

(*x*) For description, see p. 38, *ante*.
(*y*) This word was added by the Act of 1909, s. 46, and Sched. II.
(*z*) (1890) s. 38 (1).
(*a*) (1890) s. 79 (2).
(*b*) See p. 11, *ante*.
(*c*) (1890) s. 38 (1).
(*d*) (1890) s. 38 (2).
(*e*) Local Government Act, 1894, s. 6 (2).
(*f*) (1890) s. 52. See as to medical officer of health of the county, p. 100, *post*.
(*g*) (1890) s. 45 (1).

It is also the duty of the clerk of a rural district council to forward to the medical officer of health of the county (*h*) a copy of such representation (*i*).

Duty of authority on representation made.—On receipt by the local authority of such representation they must cause a report to be made to them as to the circumstances of the building, and the cost of pulling it down and acquiring the land. The report and representation must then be considered (*k*).

If it is decided to proceed they must cause a copy of both the representation and report to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the local authority for consideration thereof (*l*).

The owner may then attend and state his objections, and after hearing these the local authority must make an order (*m*) allowing the objection or directing the obstructive building to be pulled down. Such order is subject to the like appeal as a demolition order (*n*).

Obstructive buildings in London.—Where the representation relates to obstructive buildings in the area of some local authority in the county of London (*o*), and the local authority resolve that the case of such buildings is of such general importance to the county of London that it should be dealt with by a scheme under Part I. of the principal Act, they may submit the resolution to the Local Government Board (*p*), and the same proceedings may be adopted as when a similar submission is made in the case of a representation as to unhealthy dwellings and with the like consequences (*q*).

Power of county council to intervene in certain cases.—In the case of failure to proceed against an obstructive

(*h*) As to the appointment of this officer, see p. 100, *post*.
(*i*) (1909) s. 69 (1).
(*k*) (1890) s. 38 (3).
(*l*) *Ibid.*
(*m*) Under seal ((1890) s. 86 (1)).
(*n*) (1890) s. 38 (3). The appeal will now be to the Local Government Board. See p. 45, *ante*, and see also p. 91, *post*, as to appeals generally.
(*o*) Exclusive of the City ((1890) s. 93).
(*p*) Formerly a Secretary of State : see p. 13, *ante*.
(*q*) (1890) s. 73 (1), and p. 40, *ante*.

building after such representation on the part of metropolitan borough councils or of rural district councils, powers are given to the county councils, within whose jurisdiction such boroughs or districts are, to take steps to remedy the default (*r*). This subject will be discussed later (*s*).

Effect of order to pull down obstructive buildings.—If the order is to pull down the building, and is not appealed from within the prescribed time (*t*), or an appeal is made but fails or is abandoned, the local authority are authorised to purchase the lands on which the building stands just as if they had been authorised by a special Act to purchase the same. For this purpose the provisions of the Lands Clauses Acts (*u*), with respect to the purchase and taking of lands otherwise than by agreement (*x*), are to be deemed to be incorporated in this part of the Act, subject, however, to the provisions of this part of the Act (*y*). In applying the provisions of the Lands Clauses Acts this part of the Act is to be deemed the special Act, and the local authority are to be deemed the promoters of the undertaking (*z*).

The purchase may be at any time within one year from the date of the order, or, if it is appealed against, from the date of its confirmation (*a*).

Right of owner to retain site.—Within a month after the notice of the local authority has been served upon him the owner of the lands may declare that he desires to retain the site of the obstructive building, and may undertake either to pull down, or to permit the local authority to pull down, the building. In such case the owner may retain the site, and compensation must be paid to him by the local authority for the pulling down of the building (*b*).

Protection of rights of other owners.—Any owner (*c*) whose interests are at stake, and who desires to claim a retention of the site, may obtain an order from a court of summary

(*r*) (1890) s. 45 (1).
(*s*) See p. 63, *post*.
(*t*) See p. 50, *ante*.
(*u*) See as to Scotland, p. 121, *post*.
(*x*) *I.e.* ss. 16-68.
(*y*) *I.e.* by the sub-sections of s. 38, and by s. 41.
(*z*) (1890) s. 38 (4).
(*a*) (1890) s. 38 (4).
(*b*) (1890) s. 38 (5).
(*c*) See definition, p. 34, *ante*.

jurisdiction empowering him within a time named in the order to claim to retain the site. This order is obtained in the same way as in the case of an owner protecting his interests under a closing order (*d*), or under a demolition order (*e*), but in this case the court has power to enlarge the time mentioned in its original order within which the claim may be made to retain the site (*f*).

Use of site after demolition of building.—If the owner retains the site or any part of it, he must not erect on it or any part of it any house or other building or erection which will be dangerous or injurious to health, or which will constitute an obstructive building (*g*). If he does, the local authority may at any time order him to abate or alter it (*h*), and on failure by him the local authority may do so and charge the owner with the expenses (*i*).

If the local authority purchase the land, they are bound to remove the obstructive building, or so much of it as may be obstructive. This being done, they must keep as an open space the whole site, or so much of it as may be necessary for the purpose of remedying the nuisance or other evils caused by such obstructive building. The remainder (if any) they may sell, subject to the assent and to the terms of the Local Government Board (*k*). They may, also, if they think fit, dedicate any land so acquired by them as a highway or other public place (*l*).

Compensation on pulling down obstructive building.—The amount of compensation to be paid to the owner for the pulling down of an obstructive building, and for the purchase

(*d*) See p. 41, *ante*.
(*e*) See p. 45, *ante*.
(*f*) (1890) s. 47 (2) (3). As to Scotland, see p. 124, *post*.
(*g*) For description, see p. 18, *ante*.
(*h*) From this order there would appear to be an appeal to the quarter sessions under (1890) s. 35. See that section referred to, p. 116, *post*, as to procedure.
(*i*) (1890) s. 38 (10).
(*k*) (1890) s. 38 (11). In the case of a sale by metropolitan borough councils the assent required used to be that of a Secretary of State (see (1890) s. 46 (4)), but now the assent is that of the Local Government Board (see p. 13, *ante*).
(*l*) (1890) s. 38 (12).

of the lands, is, in case of difference, to be settled by arbitration as prescribed by this part of the Act (*m*).

As the settlement of compensation concerns cases under this part of the Act other than those now under discussion, the subject is postponed and placed in a section by itself (*n*). There are, however, certain matters peculiar to the question of compensation for the purchasing of lands on which obstructive buildings stand, and for the demolition of such buildings, which require special mention here.

(1) Where the local authority are empowered to purchase land compulsorily, the owner of a house or other building (*o*) or manufactory cannot insist on his entire holding being taken if part only is proposed to be taken as obstructive, and such part can, in the opinion of the arbitrator, be severed from the remainder without material detriment thereto. But in such a case compensation may be awarded in respect of the severance in addition to the value of the part severed (*p*).

(2) The arbitrator now has power to apportion the amount of compensation between any persons who have an interest in the compensation in such manner as the arbitrator thinks proper (*q*).

(3) It may be that the demolition of the building may enhance the value of those buildings which it formerly obstructed. If that be the opinion of the arbitrator, he must apportion so much of the compensation to be paid for the demolition of the building as may be equal to the increase in value of the other buildings amongst those buildings respectively. That amount so apportioned to each such other building in respect of its increase in value is to be deemed to be private improvement expenses incurred by the local authority in respect of such building, and the local authority are empowered, for the purpose of defraying such expenses, to make and levy improvement rates on the occupier of such premises accordingly (*r*). The provisions of the Public Health

(*m*) (1890) s. 38 (6). The section dealing with the settlement of compensation is s. 41.

(*n*) See p. 59, *post*.

(*o*) The words "or other building" were inserted in the original section by the Act of 1909, s. 46, and Sched. II.

(*p*) (1890) s. 38 (7).

(*q*) (1909) s. 28 (1). (*r*) See as to Scotland, p. 123, *post*.

Acts relating to private improvement expenses and to private improvement rates are made applicable, as far as possible, as if they were incorporated in the Act (*s*); and they are, for the above purpose, extended to the county and to the city of London (*t*).

In the event of dispute between the owner or occupier of any building (to which any amount is so apportioned) and the arbitrator, the dispute is to be settled by two justices in manner provided by the Lands Clauses Acts, in cases where the compensation claimed in respect of lands does not exceed £50 (*u*).

The last two provisions, relating to apportioning compensation money among interested persons and the apportionment of the payment of compensation money among buildings benefited, are not to be confined to cases where the amount of compensation is settled by arbitration. They may be applied to cases where the amount of compensation has been settled otherwise than by arbitration. In such cases the apportionment is to be made by an arbitrator appointed for the special purpose, on the application of the local authority, by the Local Government Board, and the provisions of the principal Act of 1890 are to apply as if the arbitrator so appointed had been appointed to settle the amount to be paid for compensation (*x*).

Section 4.—Schemes for Reconstruction.

Reconstruction schemes—why necessary.—In this and the previous chapters we have so far dealt with the remedies to be applied for unhealthy dwellings in two sets of circumstances. In the one case the remedy required the local authority to deal with a large area necessitating a scheme of considerable magnitude; in the other only one or two or a few houses

(*s*) (1890) s. 38 (8). See Public Health Act, 1875, ss. 213–215, 232, and 257.

(*t*) (1890) s. 46 (1). In so applying them, any local authority in the county of London, *i.e.* the metropolitan borough councils, and the common council in the city of London, are to be deemed the urban authority (*ibid.*).

(*u*) (1890) s. 38 (9). See Lands Clauses Consolidation Act, 1845, ss. 22 and 24. As to Scotland, see p. 121, *post*.

(*x*) (1909) s. 28 (2).

were involved. It can easily be seen that between these two extremes there may be circumstances in which those remedies would, in the one case be unnecessarily large and cumbersome, and in the other be inadequate. The principal Act of 1890 therefore provided a remedy intermediate between the remedy by an improvement scheme and the remedy by closing and demolition orders, or the removal of obstructive buildings. It set forth a scheme of a minor character called a scheme for reconstruction. This did not require, as an improvement scheme did, a provisional order subsequently confirmed by an Act of Parliament. It was obtained by an order of the Local Government Board, made after inquiry, and so long as the land required could be purchased by agreement the order of the Local Government Board sufficed. If such purchase could not so be effected, the order was published in the *London Gazette* and otherwise, and it was only where a petition was presented by an owner and persisted in against the order that an Act of Parliament became necessary (*y*).

The new Act has swept away even this necessity. The Local Government Board have become the sole confirming authority in all cases, even where powers of compulsory purchase are conferred by the scheme (*z*).

Reconstruction schemes—when available.—A reconstruction scheme becomes available under one or other of two conditions.

The first is where an order for the demolition of a building has been made as before mentioned (*a*), and it appears to the local authority that it would be beneficial to the health of the inhabitants of the neighbouring dwelling-houses if the area of the dwelling-house of which such building forms part were used for any of the following purposes :

(1) either dedicated as a highway or open space ; or
(2) appropriated, sold, or let for the erection of dwellings for the working classes ; or
(3) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on

(*y*) Sec (1890) s. 39, and particularly sub-ss. (4–6).
(*z*) (1909) s. 24 (2).
(*a*) p. 44, *ante*.

exchange will be appropriated, sold, or let for such erection (*b*).

The second is where it appears to the local authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any building is dangerous or prejudicial to the health of the inhabitants, either of those buildings, or of the neighbouring buildings, and that the demolition or the reconstruction and re-arrangement of those first-named buildings, or of some of them, is necessary to remedy the said evils, and that the area comprising those buildings and the yards, outhouses, and appurtenances thereof, and the site thereof, is too small to be dealt with as an unhealthy area under an improvement scheme under Part I. of the Act (*c*).

Procedure for reconstruction scheme.—When the local authority have come to either of the conclusions in the last paragraph described they must pass a resolution to such effect and direct a scheme to be prepared for the improvement of the area affected (*d*).

A metropolitan borough council must also consider the advisability of so proceeding, and must in a proper case proceed, when a representation having been made under Part I. to the London County Council, relating to not more than ten houses, the county council have directed the medical officer making the representation to represent the case to the borough council under Part II. of this Act (*e*).

The local authority are not limited strictly to this area, but neighbouring lands may be included in the area comprised in the scheme if the local authority are of opinion that the inclusion is necessary for making their scheme efficient (*f*).

The scheme may make provision for any matters for which

(*b*) (1890) s. 39 (1) (*a*).
(*c*) (1890) s. 39 (1) (*b*).
(*d*) (1890) s. 39 (1). See also p. 69, *post*, as to the obligation of the local authority to make a scheme when ordered to do so by the Local Government Board after inquiry under s. 10 of the Act of 1909.
(*e*) (1890) s. 72.
(*f*) (1903) s. 7. As to compensation for such land, see p. 59, *post*.

provision may be made in an improvement scheme under Part I. of the Act (*g*).

Notice of the scheme may be served at any time after the preparation of the scheme on every owner or reputed owner, lessee or reputed lessee, and occupier of any part of the area comprised in the scheme, so far as those persons can be reasonably ascertained. Service is to be effected as provided under Part I. of the Act with respect to notices of lands proposed to be taken compulsorily (*h*).

The local authority, after serving the notices, must petition the Local Government Board for an order sanctioning the scheme. The Board may then cause a local inquiry to be held, and if satisfied on the report of the inquiry, may sanction the scheme either absolutely or with such conditions and modifications as they think would be beneficial to the health of the inhabitants of the said buildings or of the neighbouring dwelling-houses (*i*); and upon the order being made the authority may purchase the area comprised in the scheme (*k*).

The order of the Board sanctioning the scheme requires no confirmation by Parliament, even though it authorises the compulsory purchase of land for the purposes of the scheme (*l*).

In sanctioning a scheme the Board must require by their order the insertion in the scheme of such provisions (if any) for the dwelling accommodation of persons of the working classes displaced in consequence of (*m*) the scheme as the Board shall think necessary (*n*).

The order may incorporate the provisions of the Lands Clauses Acts, and if so, the provisions of this Act are to be deemed to be the special Act, and the local authority to be the promoters of the undertaking, and the area is to be acquired

(*g*) (1909) s. 23 (2). This is a new provision. As to what may be provided for in an improvement scheme, see p. 18, *ante*.

(*h*) (1890) s. 39 (2). See p. 35, *ante*, as to service of such notices.

(*i*) (1890) s. 39 (3).

(*k*) (1890) s. 39 (4). The portion of this sub-section confining the purchase to purchase by agreement is repealed ((1909) s. 75, and Sched. VI.)

(*l*) (1909) s. 24 (2). A new provision. But see the provisions restricting powers of purchase in the case of certain lands, p. 96, *post*.

(*m*) The words "in consequence of" were substituted by the new Act for the word "of" in the principal Act ((1909) s. 46, and Sched. II.).

(*n*) (1890) s. 40.

within three years after the date of the confirmation of the order (*o*).

The amount of compensation is to be settled, in the event of difference, by arbitration as prescribed (*p*).

Effect of order confirming scheme.—Upon the order being made the local authority may purchase the area comprised in the scheme (*q*).

It is the duty of the local authority to carry the scheme as confirmed by the order into execution.

The following provisions of Part I. of the Act, as amended by any subsequent Act (*r*), relating to the following matters apply, with the necessary modifications, to the schemes now under discussion (*s*), namely: the provisions relating to

the duty of a local authority to carry the scheme when confirmed into execution (*t*);

the power of the Local Government Board to enforce that duty (*u*);

the completion of a scheme on failure by a local authority (*v*);

the extinction of rights of way and other easements (*x*);

the power to allow a disturbed tenant in certain cases a reasonable sum on account of his expenses of removal (*y*).

Modification of confirmed scheme.—The Local Government Board, if satisfied by the local authority that an improvement can be made in the details of a scheme, may by order permit the local authority to abandon any part of the scheme which it may appear inexpedient to carry into execution (*z*), and also to

(*o*) (1890) s. 39 (7).

(*p*) *Ibid.* As to settling compensation, see s. 41, and p. 59, *post*.

(*q*) (1890) s. 39 (4), as amended by (1909) s. 75, and Sched. VI.

(*r*) The words "as amended by any subsequent Act" were inserted by the new Act ((1909) s. 46, and Sched. II.).

(*s*) (1890) s. 39 (8), as amended.

(*t*) See p. 32, *ante*.

(*u*) This is new ((1909) s. 46, and Sched. II.). See p. 69, *post*, as to this power.

(*v*) See p. 32, *ante*.

(*x*) See p. 27, *ante*.

(*y*) (1890) s. 78, and see p. 26, *ante*.

(*z*) (1890) s. 39 (9). Provisoes (*a*) and (*b*) in the original section which placed limitations on this power are repealed by the new Act ((1909) s. 75, and Sched. VI.).

modify it "by amending or adding to the scheme in matters of detail in such manner as appears expedient to the Board" (*a*).

Power of London County Council to make reconstruction scheme.—As to this power, see later (*b*).

Section 5.—Assessment of Compensation.

Mode of determining compensation.—Where compensation under Part II. of the Act of 1890 is to be settled by arbitration the amount is to be fixed by an arbitrator appointed and removable by the Local Government Board (*c*).

The arbitrator must make a declaration before a justice of the peace and annex the same to the award (*d*).

He has power to call for all necessary documents in the possession of the parties and to examine on oath (*e*).

The submission to arbitration may be made a rule of court on the application of either party (*f*).

Power is given to the Board to appoint another arbitrator in the event of the death, removal, resignation, incapacity, refusal or neglect to act, of any arbitrator before he has made his award, and all documents relating to the matter must then be delivered to the new arbitrator (*g*).

Cases for compensation.—The cases in which under Part II. compensation is the subject of arbitration are: where an obstructive building is demolished under an order of the local authority (*h*); where land is taken under a scheme for reconstruction (*i*); and where under a like scheme rights of way and other easements are extinguished (*j*).

Principles of assessment.—The principles upon which the amount of compensation is to be assessed are as follows (*k*);

(*a*) (1909) s. 25.
(*b*) p. 64, *post*.
(*c*) (1890) s. 41 (1).
(*d*) Lands Clauses Consolidation Act, 1845, s. 33, applied by (1890) s. 41 (5).
(*e*) *Ibid.*, s. 32, applied *ibid.*
(*f*) *Ibid.*, s. 36, applied *ibid.*
(*g*) (1890) s. 41 (7).
(*h*) (1890) s. 38 (4) (6). See p. 52, *ante*.
(*i*) (1890) s. 39 (7). See p. 58, *ante*.
(*j*) (1890) s. 39 (8). See pp. 27 and 58, *ante*.
(*k*) (1890) s. 41 (2) (3).

but in the case of the purchase of lands with obstructive buildings the special provisions relating thereto (*l*) must not be overlooked:

(1) Subject to the special circumstances mentioned below (*m*), the estimate of the value of the dwelling-house is to be based on the fair market value as estimated at the time of the valuation being made of such dwelling-house and of the several interests in such dwelling-house.

(2) Due regard must be had, in estimating, to the nature and then condition of the property, to the probable duration of the buildings in their existing state, and to their state of repair.

(3) No additional allowance may be made in respect of compulsory purchase (*n*), except in the case of neighbouring land which has been included in a reconstruction scheme for the purpose of making it efficient (*o*).

(4) If, in the opinion of the arbitrator, the alteration or demolition by the local authority of any buildings will give an increased value to other dwelling-houses of the same owner, the arbitrator must have regard to and make an allowance in respect of such increased value (*p*).

(5) The rule first stated above is subject to modifications where certain special circumstances are proved to the satisfaction of the arbitrator to exist (*q*).

(i) Evidence may be given to prove that the rental of the dwelling-house was enhanced by reason of its being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates.

If this be proved, the valuation, in so far as it is based on rental, must be based on the rental which would have been obtainable if the dwelling-house had been occupied for legal purposes, and only by the number of persons whom the house was under all the circumstances fitted to accommodate without such overcrowding as described.

(*l*) See pp. 53 and 54, *ante*.
(*m*) Under rule (5).
(*n*) (1890) s. 41 (2) (*a*).
(*o*) (1903) s. 7. See as to including neighbouring land, p. 56, *ante*.
(*p*) (1890) s. 41 (2) (*b*).
(*q*) (1890) s. 41 (3).

(ii) Evidence may be given that the dwelling-house is in a state of defective sanitation, or is not in reasonably good repair.

If proved, the compensation is to be the amount estimated as the value of the dwelling-house if it had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair.

(iii) Evidence may be given that the dwelling-house is unfit, and not reasonably capable of being made fit, for human habitation.

If this be proved, the compensation is to be the value of the land, and of the materials of the buildings thereon.

Evidence tendered to establish the above facts must be received by the arbitrator (*r*), and the local authority may tender such evidence, even though they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence (*s*).

The award.—The award of the arbitrator is final and binding on all parties (*t*).

The arbitrator may by one award settle the amount or amounts of compensation payable in respect of all or any of the dwelling-houses included in one or more order or orders made by the local authority. But the arbitrator may, and, if the local authority require it, must, from time to time make an award respecting a portion only of the disputed cases before him (*u*).

The award must be delivered in writing to the local authority, who shall retain the same, and shall, on demand and at their own expense, furnish a copy to the other party, and shall on demand produce the award for inspection and examination by such party or by any one appointed by him for the purpose (*x*).

The award with respect to any question referred to

(*r*) (1890) s. 41 (3).
(*s*) (1909) s. 29.
(*t*) (1890) s. 41 (11).
(*u*) (1890) s. 41 (6).
(*x*) Lands Clauses Consolidation Act, 1845, s. 35, applied by (1890) s. 41 (5).

arbitration cannot be set aside for irregularity or error in matter of form (*y*).

Payment of compensation and conveyance.—When the local authority pay or tender to the person entitled the amount of compensation which has been agreed or awarded, or if the local authority make payment thereof in the manner prescribed by the Lands Clauses Acts (*z*), the owner must, when required by the local authority, convey his interest in the dwelling-house to them, or as they may direct (*a*).

In default of his so doing, or in the event of his failing to adduce a good title to the satisfaction of the authority, they may execute a deed poll in such manner and with such consequences as are mentioned in the Lands Clauses Acts (*b*).

The costs.—On the application of any claimant in the arbitration the arbitrator may, if he thinks fit, certify the amount of costs properly incurred by such claimant, and the local authority must pay such certified costs (*c*).

The certificate of costs must be given where the amount of compensation awarded is the same or less than the amount offered by the local authority in respect of the claim before the appointment of the arbitrator (*d*).

Further, there is no obligation on the arbitrator to give a certificate for costs where he considers that the claimant neglected, after due notice from the local authority, to give them a written statement within such time, and containing such particulars of his claim, as would have enabled the authority to make a proper offer of compensation before the appointment of the arbitrator (*e*).

(*y*) Lands Clauses Consolidation Act, 1845, s. 37, applied by (1890) s. 41 (5).

(*z*) See sections 69–80 of the Lands Clauses Consolidation Act, 1845, relating to payment into the bank in cases in which the parties are under disability, or are not absolutely entitled, or refuse to convey, or fail to make title, or cannot be found; but see p. 103, *post*, when land is purchased from another authority. See as to Scotland, pp. 121 and 122, *post*.

(*a*) (1890) s. 41 (4).

(*b*) (1890) s. 41 (4). See the Lands Clauses Consolidation Act, 1845, ss. 76, 77. See as to Scotland, p. 121, *post*.

(*c*) (1890) s. 41 (8).

(*d*) (1890) s. 41 (9).

(*e*) (1890) s. 41 (9).

If the certified costs are not paid within seven days after demand they may be recovered as a debt from the local authority, with interest at the rate of 5 per centum per annum for the period between the expiration of the seven days and the date of payment (*f*).

SECTION 6.—POWERS OF COUNTY COUNCILS UNDER PART II. (*g*).

Power of county council to intervene in certain cases.—In cases of unhealthy or obstructive buildings within the district of a metropolitan borough council or a rural district council (here referred to as the district authority), the county council within whose area such district lies have power to intervene in cases of default.

If the county council are of opinion

(1) that proceedings for a closing order as respects any dwelling-house ought to be instituted (*h*); or

(2) that an order ought to be made for the demolition of any buildings forming, or forming part of, any dwelling-house as to which a closing order has been made; or

(3) that an order ought to be made for pulling down an obstructive building specified in any representation made to the district authority;

the county council may give in writing notice of such opinion to the district authority.

If after a reasonable time from such notice, not being less than one month, the county council consider that the district authority have failed to institute or properly prosecute proceedings (*i*), or to make the order for demolition, or to take steps for pulling down an obstructive building, the county council may pass a resolution to that effect, and thereupon the powers of the district authority as respects such dwelling-

(*f*) (1890) s. 41 (10).

(*g*) Not applicable to Scotland ((1890) s. 96 (16)).

(*h*) There used to be proceedings before the justices ((1890) s. 32 (1)), but they have been abolished by the new Act (1909) ss. 17 (1), 75, and Sched. VI.). Probably the County Council will have the right to make a closing order themselves under the Acts of 1890 and 1909.

(*i*) *I.e.* to exercise their powers of making and enforcing a closing order. See p. 39, *ante*.

house and building under Part II. of the Act (except their powers in respect of a scheme) vest in the county council (*k*).

Expenses.—In the event of a closing order or an order for demolition or for pulling down an obstructive building being made, and not disallowed on appeal (*l*), the expenses of the county council incurred thereby, including any compensation paid, are to be a simple contract debt to the county council from the district authority (*m*); and such debt is to be defrayed by the district authority as part of their expenses in the execution of Part II. of the Act (*n*).

Power of entry.—The county council, and any of their officers, have for the above purposes the same right of admission to any premises as any district authority or their officers have for the purpose of the execution of their duties under the enactments relating to public health (*o*), and a justice may make the like order for enforcing such admission (*p*).

Power of London County Council as to reconstruction schemes.—Beyond the above-mentioned powers of intervention, the London County Council have a further power conferred upon them in respect of reconstruction schemes.

Where it appears to the London County Council, whether in the exercise of the powers of a metropolitan borough council under the provisions above referred to, *i.e.* on their default (*q*), or on the representation of a borough council or otherwise, that a reconstruction scheme ought to be made, the county council may take proceedings for preparing and obtaining the confirmation of a scheme. In such case the provisions of the Act relating to such scheme apply as if the county council were the borough council (*r*).

Primarily the expenses of and incidental to the scheme, and

(*k*) (1890) s. 45 (2).
(*l*) As to appeal, see p. 91, *ante*.
(*m*) (1890) s. 45 (2).
(*n*) (1890) s. 45 (3). See p. 65, *post*, as to expenses.
(*o*) Public Health Act, 1875, ss, 102, 305; Public Health (London) Act, 1891, ss. 10, 115. See also as to powers of entry (1890), s. 51, p. 36, *ante*, and (1909) s. 36, p. 104, *post*.
(*p*) (1890) s. 45 (4).
(*q*) p. 63, *ante*.
(*r*) (1890) s. 46 (5).

of carrying it into effect, are to be borne by the county fund, subject, however, to two qualifications (*s*).

In the first place, a metropolitan borough council may, if they think fit, contribute to those expenses, and may borrow money for the purpose in the same way as they may borrow money for other purposes under the Act of 1890 (*t*).

In the second place, if the county council think that such expenses, or a contribution towards them, should be paid or made by a borough council, they may apply to the Local Government Board (*u*); and if the Board are satisfied that, having regard to the size of the area, the number, position, structure, sanitary condition, and the neighbourhood of the buildings to be dealt with, the borough council ought to pay or contribute, the Board may order a payment or a contribution accordingly; and the amount then becomes a simple contract debt due from the borough to the county council (*x*). This order is only necessary in cases of disagreement between the two councils (*y*).

The payment or contribution may be made either by means of the payment of a lump sum or by means of an annual payment of such amount and for such number of years as may be agreed upon or ordered (*z*).

As to the power and liability of the London County Council to pay or contribute to the expenses incurred by a metropolitan borough council in respect of reconstruction schemes, see later (*a*).

Section 7.—Finance under Part II.

Expenses.—The expenses incurred by a local authority (*b*) under Part II. of the principal Act are defrayed out of the local rate (*c*); and the authority, notwithstanding any statutory

(*s*) (1890) s. 46 (5).
(*t*) (1903) s. 14. For their powers of borrowing, see p. 67, *post*.
(*u*) Formerly a Secretary of State. See p. 13, *ante*.
(*x*) (1890) s. 46 (6).
(*y*) (1903) s. 14.
(*z*) (1909) s. 33.
(*a*) (1890) s. 46 (7), and p. 66, *post*.
(*b*) See p. 11, *ante*, as to local authority.
(*c*) See p. 12, *ante*, as to local rate.

limit respecting a local rate, may levy such rate, or any increase thereof, for the purposes (*d*).

In rural districts the expenses incurred by the rural district council are charged as special expenses in the contributory place in respect of which they are incurred (*e*).

In London the expenses incurred by a metropolitan borough council in respect of a reconstruction scheme may be paid or contributed to by the London County Council if they so think fit, and if such payment or contribution ought, in the opinion of the borough council, to be so paid or made, they may in case of disagreement apply to the Local Government Board (*f*), and if the Board are satisfied that, having regard to the size of the area, the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the county council ought to pay or contribute, the Board may order accordingly, and the amount then becomes a simple contract debt due from the county to the borough council (*g*).

The payment or contribution may be agreed or be ordered to be paid in a lump sum or by annual payments of such amount and for such number of years as may be agreed or ordered (*h*).

As to powers and liabilities of the metropolitan borough councils to contribute to the expenses of reconstruction schemes when undertaken by the London County Council, see *ante* (*i*).

Borrowing by authorities outside London. — Local authorities outside London are empowered to borrow money which may be required : (1) for the purposes of purchase money or compensation payable under this part of the Act (*k*) ; or (2) for any purpose for which they are by a scheme for reconstruction duly sanctioned, or by the order sanctioning the scheme,

(*d*) (1890) s. 42 (1).
(*e*) (1890) s. 42 (2). The words excepting from this provision the expenses of proceedings for obtaining a closing order are virtually repealed so far as Great Britain is concerned, as no such proceedings are there available. See p. 40, *ante*.
(*f*) Formerly a Secretary of State. See p. 13, *ante*.
(*g*) (1890) s. 46 (7).
(*h*) (1909) s. 33.
(*i*) p. 65, *ante*.
(*k*) (1890) s. 43 (1).

authorised to borrow (*l*). They are empowered to do this in the same manner, and subject to the same conditions, as they borrow for the purpose of defraying the expenses of the execution of the Public Health Acts (*m*).

The Public Works Loan Commissioners may lend moneys to the local authority for the above purposes (*n*).

Borrowing by London authorities.—*The county council.*—The raising of sums required for purchase money or compensation payable under Part II. of the Act is a purpose for which the London County Council may borrow under Part I. of the Act (*o*). So also is any purpose for which the council are, by an authorised scheme for reconstruction or the order sanctioning it, authorised to borrow (*p*).

Metropolitan borough councils.— The raising of sums required for purchase money or compensation payable under Part II. (*q*), or for any purpose for which the metropolitan borough councils are, by a scheme for reconstruction duly sanctioned, or by the order sanctioning the scheme, authorised to borrow (*r*), are purposes for which the metropolitan borough councils may borrow under the Metropolis Management Act, 1855. Sections 183–191 of that Act, and the provisions of Part I. of the Act of 1890 with respect to borrowing apply, and have effect accordingly (*s*).

Metropolitan borough councils may also borrow sums for contribution to the expenses of the London County Council in effecting reconstruction schemes, as to which see *ante* (*t*).

(*l*) (1894) s. 1.
(*m*) (1890) s. 43 (1).
(*n*) (1890) s. 43 (2). As to the terms and conditions of such loans, see p. 106, *post*.
(*o*) (1890) s. 46 (2). See as to borrowing under Part I., p. 31, *ante*.
(*p*) (1894) s. 1.
(*q*) (1890) s. 46 (2).
(*r*) (1894) s. 1.
(*s*) (1890) s. 46 (2). Section 190 of the Metropolis Management Act, 1855, relating to the sinking fund, is amended by substituting for £2 per cent. there mentioned such sum as will be sufficient, with compound interest, to repay the money borrowed within such period, not exceeding eighty years, as may be sanctioned by the London County Council ((1903) s. 15). See p. 31, *ante*, for the provisions as to borrowing under Part I. of the Act of 1890.
(*t*) p. 65.

The London County Council may, if they think fit, lend to a local authority in the county of London the sums borrowed in pursuance of Part II. of the Act of 1890 (*u*).

Common Council of the City.—The raising of sums required for purchase money or compensation under Part II. of the Act of 1890 (*x*), or for any purpose for which they are, by a scheme for reconstruction duly sanctioned or by the order sanctioning the scheme, authorised to borrow (*y*), is a purpose for which the common council may borrow under Part I. of the Act of 1890 (*z*). The London County Council may grant a loan for the purpose (*a*).

Reports by local authorities.—Local authorities are required to send annually to the Local Government Board, in such form as may be directed, an account of what has been done, and of all moneys received and paid by them during the previous year with a view to carrying into effect the purposes of Part II. of the Act (*b*).

Section 8.—Powers to enforce Performance of Duties by Authorities.

General powers of Local Government Board on complaint.—Besides certain powers relating to specific subjects, general powers are given to the Local Government Board to interfere on complaint made to them that local authorities have neglected their duties under Part II. of the Act of 1890.

The complaint may come as respects rural districts from the council of the county in which the district is situated, or from the parish council or parish meeting, or from any four inhabitant householders of the district; as respects any county district not being a rural district the complaint may come from the council of the county in which the district is situated,

(*u*) (1890) s. 46 (3).
(*x*) (1890) s. 46 (2).
(*y*) (1894) s. 1.
(*z*) (1890) s. 46 (2). See p. 31, *ante*, as to power of borrowing under Part I.
(*a*) (1890) s. 46 (3), and s. 93.
(*b*) (1890) s. 44. As to keeping separate accounts, see p. 103, *post*.

or from four inhabitant householders of the district; and as respects the area of any other local authority the complaint may come from four inhabitant householders of the area (*l*).

After receiving such complaint the Local Government Board may hold a public local inquiry with reference to the matter, and if they are satisfied that the local authority have failed to exercise their powers under Part II. of the Act in cases where those powers ought to have been exercised, the Board may declare the authority to be in default.

The Board may then make an order directing the local authority, within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default (*m*).

If the original order so made is on the council of a county district and is not complied with, the Board may, with the consent of the county council, instead of enforcing the order against the council of the county district, make an order directing the county council to carry out the original order for remedying the default of the district council (*n*), and for the purpose of enabling the county council to give effect to the order the Board may apply any of the provisions of the Housing Acts or of section 63 of the Local Government Act, 1894 (*o*), with all necessary modifications or adaptations (*p*).

All the above orders must be laid before both Houses of Parliament as soon as may be after they are made (*q*).

Such orders are enforceable by mandamus (*r*).

Enforcing obstructive building order and reconstruction scheme and inspection.—When it appears to the Local Government Board that a local authority have failed to give effect to any order as respects an obstructive building, or to a reconstruction scheme, or have failed to cause inspection of their district to be made under the Act (*s*), the Board may make an order requiring the local authority to remedy the default, and to carry out any works or do any other things which are necessary for the purpose under the Housing Acts

(*l*) (1909) s. 10 (1).
(*m*) (1909) s. 10 (1).
(*n*) (1909) s. 10 (3).
(*o*) See p. 85, *post*.
(*p*) (1909) s. 10 (4).
(*q*) (1909) s. 10 (5).
(*r*) (1909) s. 10 (6).
(*s*) *I.e.* under s. 17 (1). See p. 36, *ante*.

within a time fixed by the order (*t*) ; and such order may be enforced by mandamus (*u*).

Default by metropolitan borough, and rural district, councils.—In cases of default by metropolitan borough councils and rural district councils in respect of closing and demolition orders, the county councils within whose jurisdiction the dwelling-house lies have power to intervene. The subject has already been discussed (*x*).

(*t*) (1909) s. 11 (1). (*u*) *Ibid.*, s. 11 (2).
(*x*) See p. 63, *ante*.

CHAPTER IV.

PROVISION OF LODGING-HOUSES FOR THE WORKING CLASSES.

SECTION 1.—POWERS AND DUTIES OF LOCAL AUTHORITIES.

Sub-section (1).—*Preliminary and General.*

Scope of chapter.—This chapter corresponds to, and deals with, Part III. of the principal Act of 1890, which has for its first object the provision of housing for the working classes, and which for its purposes empowers local and other authorities and persons to provide such accommodation (*a*).

Formerly, Part III. was merely adoptive (*b*), but the recent legislation has now provided that after the 3rd day of December, 1909, it is to extend to, and to take effect in, every urban and rural district, or other place, for which it has not been adopted, as if it had been so adopted (*c*).

"Lodging-houses for the working classes."—This term when used in Part III. includes separate houses or cottages for the working classes, whether containing one or several tenements (*d*).

The expression "cottage" may here include a garden of not more than one acre (*e*).

Local authorities under Part III.—See *ante* (*f*). In the case of rural districts, however, if the county council be

(*a*) (1890) s. 53 (1).
(*b*) (1890) s. 54, now repealed: (1909) ss. 1, 75, and Sched. VI.
(*c*) (1909) s. 1.
(*d*) (1890) s. 53 (1).
(*e*) (1909) s. 50, repealing (1890) s. 53 (2).
(*f*) p. 11.

of opinion that it is expedient that they should exercise any of the powers of the rural district council under Part III. in any district in the county, they may, after giving notice to the rural district council of their intention to do so, apply to the Local Government Board for an order conferring such powers on them. An order may then be made by the Board, conferring on the county council all or any of such powers in respect of the district, and thereupon the provisions of the Housing Acts relating to these powers (including those enabling the Public Works Loan Commissioners to lend, and fixing the terms for which money may be lent and borrowed) shall apply as if the county council were a local authority under Part III. of the principal Act. But the expenses incurred by the county council under the order are to be defrayed as expenses for general county purposes (*g*).

Where under such order the county council has executed any works in a rural district, they may transfer the works to the rural district council on such terms and subject to such conditions as may be agreed between them (*h*).

Sub-section (2).—*Powers of Acquisition and Provision.*

General powers.—For the purpose of executing the provisions of Part III. of the principal Act and of equipping themselves with the means for providing the necessary accommodation (which is one of the purposes of Part III. (*i*)), local authorities have the same powers, whether of contract or otherwise, as they have for and in the execution of their duties under the Acts which constitute or govern them (*k*). That is to say, in the case of the London County Council under the Metropolis Management Act, 1855, and amending Acts; in the case of sanitary authorities outside London under the Public Health Acts; in the case of the common council of the City of London under the Commissioners of Sewers Acts; and in the case of the metropolitan borough councils under their general powers conferred by the London Government Act, 1899.

(*g*) (1909) s. 13 (1) (2). Not applicable to Scotland: *ibid.*, s. 53 (13).
(*h*) (1909) s. 13 (3).
(*i*) (1890) s. 53 (1).
(*k*) (1890) s. 56. See, also, as to lands acquired under Artizans' Dwellings Acts, p. 90, *post*. As to Scotland, see p. 123, *post*.

In so far, however, as these statutes confer powers of compulsory purchase they are superseded (*l*).

Acquisition of land by agreement.—For the purpose of acquiring land by agreement, either by purchase or lease, sections 175 and 178 of the Public Health Act, 1875, are applied to London as well as to the provinces (*m*).

Local authorities may also acquire land by agreement for the purposes of Part III., although the land is not immediately required for those purposes (*n*). This is a new power and is evidently meant to enable local authorities to seize favourable opportunities of obtaining land. But the power can only be exercised with the consent of, and subject to any conditions imposed by, the Local Government Board (*n*).

Acquisition of land, etc., by donation.—Local authorities may accept a donation of land or money or other property for any of the purposes of the Housing Acts, and it is not necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888 (*o*).

Acquisition of land by compulsory purchase.—For the purpose of Part III. local authorities may be empowered to purchase the necessary lands compulsorily. Formerly, the compulsory powers conferred by the Public Health Act, 1875 (*p*), were applicable, and applied to London as well as to the provinces (*q*), but the powers so derived are now superseded

(*l*) (1909) s. 2 (2).

(*m*) (1890) s. 57 (1). In applying these sections to the London authorities, the common council of the City and the London County Council, and the metropolitan borough councils, will be the local authority mentioned in the sections. The substitution by s. 57 (1) of the Act of 1890 of a Secretary of State for the Local Government Board will no longer apply, as the powers of the former under the Housing Acts have been transferred to the latter ((1903) s. 2, and p. 13, *ante*).

(*n*) (1909) s. 2 (3).

(*o*) (1909) s. 8. See also the Working Classes Dwellings Act, 1890, which exempts from the Mortmain and Charitable Uses Act, 1888, assurances of land, or personal estate to be laid out in land, for the purpose of providing dwellings for the working classes in any populous place.

(*p*) s. 176.

(*q*) (1890) s. 57 (1).

by the new Act which contains special provisions on the subject (*r*).

The local authority now obtain the power of compulsory purchase by means of an order submitted to the Local Government Board (*s*), and confirmed by the Board according to the procedure laid down in the First Schedule to the Act (*t*), subject, however, to certain special provisions when the land is situate in London, or in a borough, or in an urban district (*u*).

In construing for the purpose of the Schedule or any order made under it, any enactment incorporated with the order, the Act or order are to be deemed the special Act, and the local authority are to be deemed the promoters of the undertaking (*x*).

The order.—The order as submitted to the Board is an order putting in force as respects the land therein specified the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement (*y*). The order only becomes operative after confirmation by the Board, and this confirmation may be either with or without such modifications as the Board may think fit (*z*). In some cases confirmation by Parliament is necessary (*a*).

The order is to be in the prescribed (*b*) form. It is to contain such provisions as the Board may prescribe for the purpose of carrying it into effect, and of protecting the local authority and the persons interested in the land. It is to incorporate, with necessary adaptations, the Lands Clauses Acts (*c*), and sections 77–85 of the Railways Clauses Con-

(*r*) (1909) ss. 2 (2), 47 (1), and Sched. I.

(*s*) In Scotland, the Local Government Board for Scotland ((1909) Sched. I. (14)), and so read throughout all references to the Schedule.

(*t*) (1909) s. 2 (1). The Schedule applies to Scotland except the portion relating to glebe land, and subject to certain modifications ((1909) Sched. I. (14), and p. 124, *post*).

(*u*) (1909) Sched I. (2) and (7), and see p. 75, *post*.

(*x*) (1909) Sched. I. (11).

(*y*) (1909) Sched. I. (1).

(*z*) *Ibid.* (2).

(*a*) See p. 76, *post*.

(*b*) *I.e.* prescribed by the Board ((1909) Sched. I. (13)).

(*c*) Except s. 127 of the Lands Clauses Consolidation Act, 1845, and, in Scotland, s. 120 of the Lands Clauses Consolidation (Scotland) Act, 1845. See as to this latter (1909), Sched. I. (14), p. 180, *post*.

solidation Act, 1845 (*d*), but subject to the modification that any question of disputed compensation shall be determined by a single arbitrator (*e*) appointed by the Board, who is to be deemed to be an arbitrator within the meaning of the Lands Clauses Acts, and, subject to the provisions of the Schedule, the provisions of those Acts with respect to arbitration are to apply (*f*).

Glebe land, etc.—If the land be glebe land or other land belonging to an ecclesiastical benefice, the order must provide that the compensation, agreed or awarded for the purchase of the land, or to be paid by way of compensation for the damage sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice (*g*).

Publication of order.—The order is to be published by the local authority in the prescribed (*h*) manner, both in the locality in which the land is situate, and to the owners, lessees, and occupiers of that land as may be prescribed (*i*).

Confirmation of order.—The procedure to be adopted for the purpose of obtaining confirmation of the order depends upon whether or not any part of the land to be acquired is situate in London or a borough or an urban district.

(i) *Where the land is in London, a borough, or an urban district.*—Where the land proposed to be acquired under the order consists of or comprises land situate in London, or in a borough, or in an urban district (*k*) the Board must appoint an impartial person, not in the employment of any Government Department, to hold the inquiry as to whether the land

(*d*) In the application of the Schedule to Scotland read here "sections 70–78 of the Railways Clauses Consolidation (Scotland) Act, 1845" ((1909) Sched. I. (14)).

(*e*) "Arbiter" in Scotland (*ibid.* (14)).

(*f*) (1909) Sched. I. (4).

(*g*) (1909) Sched. I. (12). This has no application in the case of land in Scotland ((1909) Sched I. (14)).

(*h*) *I.e.* prescribed by the Board ((1909) Sched. I. (13)).

(*i*) (1909) Sched. I. (5).

(*k*) In Scotland the reference to a borough or urban district is a reference to a burgh ((1909) Sched. I. (14) (*d*)).

proposed to be acquired is suitable for the purposes for which it is sought to be acquired, and whether, having regard to the extent or situation of the land and the purposes for which it is used, it can be acquired without undue detriment to the persons interested therein or the owners of adjoining land (*l*).

If the report is: (i) that the land, or any part thereof, is not suitable for the purposes for which it is sought to be acquired; or (ii) that owing to its extent or situation or the purpose for which it is used it cannot be acquired without such detriment as aforesaid; or (iii) that it ought not to be acquired except subject to conditions specified in the report; then the powers of confirmation by the Board are restricted.

If they confirm the order in the event of either of the first two findings, or if they confirm the order in the face of the third finding without such modifications as may be necessary to give effect to the special conditions, the order is provisional only, and has no effect until confirmed by Parliament (*m*).

(ii) *Where the land is not in London, or a borough, or urban district.*—Where no part of the land is suitable in London or a borough or urban district (*n*) the course of procedure depends upon whether or not any objection has been raised to the order by any person interested in the land.

If no such objection has been raised within the period prescribed by the Board, or having been raised, has been withdrawn, the Board may confirm the order without further inquiry (*o*).

If an objection be persisted in, the Board is forthwith to cause a public inquiry to be held in the locality in which the land in question is situate, and the local authority and all persons interested in the land, and such other persons as the person holding the inquiry in his discretion thinks fit to allow, are to be permitted to appear and be heard (*p*).

(*l*) (1909) Sched. I. (7). In England the person holding this inquiry has all the powers of an inspector of the Local Government Board (*ibid.*). As to who may appear and how he may be heard and what witnesses may be called, see *ibid.* (8), and p. 77, *post.*

(*m*) (1909) Sched I. (7).

(*n*) In Scotland, in a burgh; Sched. I. (14) (*d*).

(*o*) (1909) Sched. I. (6).

(*p*) (1909) Sched. I. (6).

They may appear by themselves or their agents, and may call witnesses, but may not, except in such cases as the Board otherwise direct, be heard by counsel or call expert witnesses (*q*).

After considering the report of the person holding the inquiry and the objections made thereat, but not before doing this, the Board may confirm the order (*r*).

Effect of confirmation.—When confirmed the order becomes final, and is as effectual as if it were enacted in the Act itself, and the confirmation is conclusive evidence that the requirements of the Act have been complied with, and that the order has been duly made and is within the powers of the Act (*s*).

Compensation.—As we have seen (*t*) questions of disputed compensation are to be determined by a single arbitrator appointed by the Local Government Board, who is to be an arbitrator within the meaning of the Lands Clauses Acts. His remuneration is to be fixed by the Board (*u*).

In assessing compensation the arbitrator is, so far as practicable, to act on his own knowledge and experience. He may hear by themselves or agents any authorities or parties authorised to appear, and must hear witnesses, but may not, except in such cases as the Board otherwise direct, hear counsel or expert witnesses (*x*).

No additional allowance is to be made on account of the purchase being compulsory (*y*).

Costs.—Rules forming a scale of costs may, with the concurrence of the Lord Chancellor (*z*), be made by the Board, and an arbitrator, notwithstanding anything in the Lands Clauses Act, may determine the amount of costs, and has power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers have been caused or incurred unnecessarily (*a*).

(*q*) (1909) Sched. I. (8).
(*r*) (1909) Sched. I. (7).
(*s*) (1909) Sched. I. (2).
(*t*) p. 75, *ante*.
(*u*) (1909) Sched. I. (10).
(*x*) (1909) Sched. I. (8).
(*y*) (1909) Sched. I. (3).
(*z*) In Scotland, the Lord Advocate ((1909) Sched. I. (14)).
(*a*) (1909) Sched. I. (9).

Acquisition of lodging-houses by agreement.—Local authorities may contract for the purchase or lease of any lodging-houses for the working classes already, or hereafter to be, built and provided (*b*), and this may be done outside their district, except in the case of rural districts (*c*).

Local authorities may, also, appropriate any lodging-houses so purchased or taken on lease, and any other land which may for the time being be vested in them, or at their disposal. But for this purpose rural district councils require the consent of the county council of the county in which the land is situate, and other local authorities require the consent of the Local Government Board (*d*).

They may also purchase or take on lease, or take over the management of lodging-houses from the trustees of any lodging-houses for the working-classes for the time being provided in any district by private subscriptions or otherwise, with the consent of a majority of the committee or other persons by whom the trustees were appointed; and the trustees are empowered with such consent so to arrange (*e*).

Erection of lodging-houses.—Local authorities may erect, on any land acquired or appropriated by them, any buildings suitable for lodging-houses for the working classes, and convert any buildings into such, and may alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite furniture, fittings, and conveniences (*f*).

Lodging-houses may be established by authorities, except rural district councils, outside their area (*g*).

Leasing of acquired land for establishment of lodging-houses.—Local authorities may lease any land acquired by

(*b*) (1890) s. 57 (2).
(*c*) (1900) s. 1.
(*d*) (1890) s. 57 (3). See also as to powers of appropriation by borough councils, Municipal Corporation Act, 1882, s. 111.
(*e*) (1890) s. 58. As to property left on trust for housing purposes, and the provisions for securing the representation of the Local Government Board in proceedings relating to such trusts, and for giving the Board an opportunity of advising as to schemes for the execution of such trusts, see p. 88, *post*.
(*f*) (1890) s. 59. (*g*) (1900) s. 1.

them under and for the purposes of Part III. to any lessee for the purpose, and under the condition, that the lessee will carry the Act into execution by building and maintaining on the land lodging-houses within the meaning of the Act; but this power cannot be exercised by a rural district council except with the consent of the county council, or by any other local authority without the consent of the Local Government Board (*h*).

In exercising this power of leasing acquired land, the local authority must insert in every lease all necessary provisions for insuring the user of the land and buildings for lodging-houses within the meaning of the Act. In particular the lease must contain provisions for binding the lessee to build on the land as in the lease prescribed, and to maintain and repair the buildings; for securing the use of the buildings exclusively as lodging-houses within the meaning of the Act (*i*); for prohibiting any addition to or alteration of the character of the buildings without the consent of the local authority; and for re-entry of the local authority on the land on the breach of any of the terms of the lease. A notice of this sub-section is to be endorsed on every deed or instrument of demise (*k*).

The sections conferring powers of management of, and of making byelaws respecting, lodging-houses (*l*), do not apply to lodging-houses under such leases (*m*).

Sale and exchange of land.—Local authorities may sell any land vested in them for the purposes of Part III. of the Act, and apply the proceeds in or towards the purchase of other land better adapted for those purposes, and may exchange any land so vested in them for land better adapted for the purposes of Part III., either with or without paying or receiving any money for equality of exchange. But the

(*h*) (1900) s. 5 (1). In the case of a council in London, the consent of a Secretary of State was formerly substituted; but see p. 13, *ante*. In the case of Scotland, the Local Government Board for Scotland is substituted for the county council ((1909) s. 53 (1)).

(*i*) For definition, see p. 71, *ante*.

(*k*) (1900) s. 5 (1).

(*l*) Namely, ss. 61 and 62 of the Act of 1890, for which see p. 81, *post*.

(*m*) (1900) s. 5 (2).

above powers can only be exercised by a rural district council with the consent of the county council, and by other authorities with the consent of the Local Government Board (*n*).

The proceeds of such sale may also be applied to any purpose, including repayment of borrowed money, for which capital money may be applied, subject, however, to the approval of the Local Government Board (*o*).

Sub-section (3). — *Improvement of Land, and Management of Lodging-houses.*

Making of roads, etc.—Local authorities may lay out and construct public streets or roads on any land acquired or appropriated by them for the purpose of Part III., or may contribute towards the cost of laying out and the construction of any streets or roads on any such land by other persons on the condition that those streets or roads are to be dedicated to the public (*p*).

Power to provide shops, etc.—Any power of a local authority under the Housing Acts, or under any scheme made thereunder, to provide dwelling accommodation or lodging-houses, includes power to provide and maintain, subject to the consent of the Local Government Board, and, if desired, jointly with any other person, in connection with such dwelling accommodation or lodging-houses, any building adapted for use as a shop, any recreation grounds, or other buildings or land, which the Board think will serve a beneficial purpose in connection with the requirements of the persons for whom the accommodation or lodging-houses are provided, and to raise money for the purpose by borrowing (*q*). The Board may by order apply, with modifications, to any land or building so provided, any statutory provisions which would have been applicable thereto if the land or building had been provided under any enactment giving any local authority powers for the purpose (*r*).

Management of lodging-houses.—The management, regulation, and control of the lodging-houses established or

(*n*) (1890) s. 60. (*o*) (1909) s. 32. (*p*) (1909) s. 6.
(*q*) (1903) s. 11 (1). (*r*) (1903) s. 11 (2).

acquired under the powers previously mentioned are vested in and exercised by the local authority (*s*), and they may regulate the making of reasonable charges for the tenancy or occupation of such houses (*t*). The disqualification of persons to become such tenants on the ground of receiving parochial relief is abolished (*u*).

They may also make byelaws for the management, use, and regulation of the lodging-houses, and must, except in the case of a lodging-house which is occupied as a separate dwelling, make byelaws for securing that the lodging-houses are under the management and control of the officers, servants, or others appointed or employed in that behalf by the local authority; for securing the due separation at night of men and boys above eight years old from women and girls; for preventing damage, disturbance, interruption, and indecent and offensive language and behaviour and nuisances; and for determining the duties of the officers, servants, and others appointed by the local authority (*x*).

In London the provisions of the Metropolis Management Act, 1855 (*y*), and outside London in England and Wales the provisions of the Public Health Act, 1875 (*z*), relating to byelaws are made applicable to byelaws under this Act. Fines and penalties may be recovered under the byelaws on summary conviction (*a*).

A printed copy or sufficient abstract of all byelaws is to be kept put up in every room (*b*).

Fines for breaches of the byelaws are to be paid to the credit of the funds out of which the expenses of Part III. are defrayed (*c*).

(*s*) (1890) s. 61 (1).
(*t*) (1890) s. 61 (2). This section does not apply to lodging-houses built by the lessees of the local authority under s. 5 of the Act of 1900. See p. 79, *ante*.
(*u*) (1909) s. 46, repealing (1890) s. 63.
(*x*) (1890) s. 62 (1), and Sched. VI. This power does not extend to lodging-houses built under leases from the local authorities under s. 5 of the Act of 1900. See p. 79, *ante*.
(*y*) ss. 202, 203.
(*z*) ss. 182, 188.
(*a*) (1890) s. 84.
(*b*) (1890) s. 62 (2).
(*c*) (1890) s. 71. As to these funds, see p. 82, *post*.

Inspection of lodging-houses.—All lodging-houses established under Part III. are to be open at all times to the inspection of the local authority in whose district they are situate, or of any officer authorised by such authority (*d*).

Sale of lodging-houses.—A rural district council with the consent of the county council, and any other local authority with the consent of the Local Government Board, may sell for the best price reasonably obtainable, and may thereupon convey, any lodging-houses which have been established for seven years or upwards under this part of the principal Act, and which the local authority determine to be unnecessary or too expensive to be kept up (*e*); but there is no obligation upon them to do so (*f*).

Sub-section (4).—*Finance.*

Expenses.—The expenses under Part III. are defrayed as follows:

In the case of an authority in the administrative county of London (*g*), namely, the county council and the common council of the city, out of the Dwelling House Improvement Fund under Part I. of the Act of 1890 (*h*);

In the case of a metropolitan borough council, whether the expenses are incurred within or without the borough, as part of the ordinary expenses of the council (*i*);

In the case of a borough or urban district council, as the general expenses of their execution of the Public Health Acts (*k*).

These will usually be met by the borough or general district rate, but where an urban sanitary authority does not levy a borough rate or a general district rate, but is empowered by a local Act or Acts to borrow money and to levy a rate or rates throughout the whole of their district for

(*d*) (1890) s. 70.
(*e*) (1890) s. 64.
(*f*) (1909) s. 40, and see p. 97, *post*.
(*g*) The expression "administrative county of London" includes both the county and the city of London ((1890) s. 93).
(*h*) (1890) s. 65. See p. 29, *ante*.
(*i*) (1900) s. 3 (1). In this case "local rate," as defined by (1890) s. 92 and Sched. I., includes the general rate of the borough (*ibid.*).
(*k*) (1890) s. 65. See ss. 207 and 208 of the Public Health Act, 1875.

purposes similar to those or to some of those for which a general district rate is leviable, they may defray these expenses by means of money to be borrowed, and a rate or rates to be levied, under such local Act or Acts (*l*).

In the case of rural district councils the expenses incurred after December 3, 1909, are provided for in the new Act which repeals all previous provisions (*m*) on this subject.

It is now provided that such expenses are to be defrayed as general expenses of the council in the execution of the Public Health Acts, except so far as the Local Government Board, on the application of the council, declare that any such expenses are to be levied as special expenses charged on specified contributory places, or as general expenses charged on specified contributory places, in the district, in such proportions as the district council may determine, to the exclusion of other parts of the district (*n*).

The rural district council must give notice to the overseers of any contributory place proposed to be charged, of any apportionment so made. From this apportionment the overseers may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after notice of the apportionment has been given (*o*).

Power of borrowing.—For the purpose of Part III. local authorities have the following powers of borrowing :—

The London County Council, and the Common Council as successors to the Commissioners of Sewers, may borrow in the same manner and subject to the same conditions as for the purpose of Part I. of the Act of 1890 (*p*).

The Metropolitan borough councils may borrow in the same manner and subject to the like conditions as their power to borrow for the purposes of Part II. of the principal Act (*q*).

(*l*) See note to Sched. I. of the Act of 1890.

(*m*) Namely, (1890) s. 65 and the proviso thereto as amended and in part repealed by (1900) s. 2 (3) and Sched.

(*n*) (1909) s. 31 (1). "Contributory place" has the same meaning as in the Public Health Act, 1875.

(*o*) (1909) s. 31 (2). See as to appeals, p. 91, *post*.

(*p*) (1890) s. 66, and see p. 31, *ante*.

(*q*) (1900) s. 3 (2). See p. 67, *ante*, for such power.

Borough and urban district councils may borrow in the same manner and subject to the same conditions as for the purpose of defraying the general expenses of their execution of the Public Health Acts (*r*).

Rural district councils may borrow in like manner and subject to the same conditions as for the purpose of defraying the before-mentioned general or special expenses of their execution of the Public Health Acts (*s*).

Sub-section (5).—*Powers to compel Performance of Duties by Authorities.*

General Powers of Local Government Board on complaint.—The Local Government Board have the same general powers, on complaint made, to compel the performance by local authorities of their duties under Part III. of the principal Act as the Board have in the case of default under Part II. (*t*).

But before deciding that a local authority have failed to exercise their powers under Part III. of the Act of 1890, the Board must take into consideration the necessity for further accommodation for the housing of the working classes in such district; the probability that the required accommodation will not be otherwise provided; and the other circumstances of the case; and also, whether, having regard to the liability which will be incurred by the rates, it is prudent for the local authority to undertake the provision of such accommodation (*u*).

Power of county councils in cases of default.—Complaint that the rural district council have failed to exercise their powers under Part III., in cases where these powers ought to have been exercised, may be made to the county council, either by the parish council or the parish meeting in the rural district, or by four inhabitant householders of the district. If after holding a local inquiry

(*r*) (1890) s. 66, as amended by (1909) s. 75 and Schedule VI., which struck out the words "or special" after the word "general." See Public Health Act, 1875, ss. 233–243.

(*s*) (1909) s. 31 (1). See Public Health Act, 1875, ss. 233–244.

(*t*) As to which, see p. 68, *ante*.

(*u*) (1909) s. 10 (2).

the county council are satisfied that the complaint is well grounded, the county council may resolve that the powers of the rural district council for the purposes of Part III. shall be transferred to the county council with respect either to the whole of the district or to any parish in the district, and those powers will be transferred accordingly, and, subject to the provisions of the Act of 1909, section 63 of the Local Government Act, 1894, will apply as if the powers had been transferred under that Act (*x*).

This power of so resolving cannot be delegated to a committee (*y*).

Section 63 (1) of the Local Government Act, 1894, applies where a county council have resolved upon complaint that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council. It requires notice of the resolution to be forthwith sent to the district council and the Local Government Board; it makes the expenses incurred by the county council a debt from the district council to the county council, defrayable as part of the expenses of the district council in the execution of the Public Health Acts, with power in the district council to raise the money as for those expenses; it empowers the county council to borrow on behalf of the district council subject to the like conditions, in the like manner, and on the security of the like fund or rate, as the district council might have borrowed for the transferred powers; it empowers the county council to charge the said fund or rate with the repayment of the loan and interest, and such must be paid by the district council in like manner, and the charge is to have the like effect, as if the loan were lawfully raised and charged by the district council; it requires the county council to keep separate accounts of all receipts and expenditure in respect of the said powers; and it enables the county council by order to vest in the district council all or any of the powers, duties, property, debts, and liabilities of the county council in relation to any of the said powers, and

(*x*) (1909) s. 12. Not applicable to Scotland: *ibid.*, s. 53 (13). As to the expenses and borrowing powers of the rural district councils under the Act of 1909, see p. 84, *ante*.

(*y*) (1909) s. 71 (1), and p. 100, *post*.

the same when vested are to be deemed to have been acquired or incurred by the district council for the purpose of those powers.

Section 2.—Powers and Duties of Persons other than Local Authorities.

Powers to companies to provide lodging-houses (*z*).—Notwithstanding any statute, or charter, or rule of law or equity to the contrary, any railway company, or dock or harbour company, or any other company, society, or association, established for trading or manufacturing purposes in the course of whose business, or in the discharge of whose duties, persons of the working class are employed, are authorised at any time to erect dwellings for the accommodation of all or any of the persons of the working class employed by them. This power is not confined to the land which the company hold for the purpose of their powers, duties and purposes, but is expressly extended to other land which by the same section they are empowered to purchase and hold for the purpose of such dwellings and for which they are authorised to pay out of any funds at their disposal (*a*).

Moreover, for the purpose of constructing or improving, or facilitating or encouraging the construction or improvement of, dwellings for the working classes, every such body above mentioned, and those bodies of persons mentioned in the next paragraph, are given power to purchase, take, and hold land. If they are not already a body corporate they are, for the purpose of holding such land under this part of the Act, and of suing and being sued in respect thereof, to be deemed a body corporate with perpetual succession (*b*).

Loans to companies.—For the purpose of constructing or improving, or of facilitating the construction or improvement of dwellings for the working classes power is given to certain persons and bodies of persons to borrow from the

(*z*) As to the obligations upon companies and other persons to rehouse working classes displaced by the companies, etc., in the exercise of their statutory powers, see p. 89, *post*.

(*a*) (1890) s. 68.

(*b*) (1890) s. 67 (3).

Public Works Loan Commissioners, and such Commissioners are empowered, out of the funds at their disposal, to advance such sums as may be necessary for the purpose (*c*).

The persons or bodies of persons referred to are :

(1) Those mentioned in the preceding paragraph (*d*) ;

(2) Any other company, society, or association established for the purpose of constructing or improving, or of facilitating or encouraging the construction or improvement of dwellings for the working classes ;

(3) Any private person entitled to any land for an estate in fee simple, or for any term of years absolute, whereof not less than fifty years shall for the time being remain unexpired (*e*).

The loans are made as provided by the Public Works Loans Act, 1875, subject to the following provisions (*f*):

(1) That any such advance may be made whether the body or proprietor receiving the sum has or has not power to borrow on mortgage or otherwise, apart from the Housing Act of 1890 ; but this is without prejudice to any regulation, statutory or otherwise, whereby any company may be restricted from borrowing until a definite portion of capital is subscribed for, taken, or paid up ;

(2) That the period for repayment shall not exceed forty years (*g*) ;

(3) That no money is to be advanced on mortgage of any land or dwellings solely, unless the estate therein proposed to be mortgaged shall be either an estate in fee simple, or an estate for a term of years absolute, whereof not less than fifty years is unexpired at the date of the advance (*h*) ;

(4) That the money advanced on the security of a mortgage of any land or dwellings solely is not to exceed one moiety (except in the case of a loan to a public utility society, when it must not exceed two-thirds) (*i*) of the value, to be ascertained to the satisfaction of the Public Works Loan Commissioners, of the estate or interest in such land or dwellings proposed to be mortgaged ; but advances may be made by instalments from time to time as the building of the

(*c*) (1890) s. 67. (*d*) p. 86, *ante*. (*e*) (1890) s. 67 (1).
(*f*) (1890) s. 67 (2) (*a*). (*g*) (1890) s. 67 (2) (*b*).
(*h*) (1890) s. 67 (2) (*c*). (*i*) (1909) s. 4 (1).

dwellings on the land mortgaged progresses, so that the total advance do not any time exceed the said amount; and a mortgage may be accordingly made to secure such advances as made from time to time.

By a public utility society is meant a society registered under the Industrial and Provident Societies Act, 1893, or any amendment thereof, the rules of which prohibit the payment of any interest or dividend at a rate exceeding £5 per centum per annum (*k*).

As to the assistance which may be given by county councils to societies having for their object the erection or improvement of dwellings for the working classes, see later (*l*).

Provision of gas and water to lodging-houses.—Power is given to all commissioners and trustees of waterworks, water companies, gas companies, and other corporations, bodies, and persons having the management of waterworks, reservoirs, wells, springs, or streams of water, and gasworks, to grant and furnish supplies of water or gas for lodging-houses provided under Part III., either gratuitously or on other favourable terms (*m*).

Property left upon trust for housing purposes.—Provision has now been made for enabling the Local Government Board to institute or expedite legal proceedings respecting the execution of trusts for housing purposes and for securing the representation of the Board in such proceedings, and also for giving the Board an opportunity of advising the court or persons engaged in making a scheme for the execution of such trusts.

When it appears to the Local Government Board that the institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of dwellings available for the working classes, or that the expediting of any such legal proceedings is requisite or desirable, the Board may certify the case to the Attorney-General (*n*), and he, if he thinks fit, will institute any legal proceedings, or intervene in any legal

(*k*) (1909) s. 4 (2).
(*l*) p. 102, *post*.
(*m*) (1890) s. 69.
(*n*) See as to Scotland, p. 118, *post*.

proceedings already instituted, in such manner as he thinks proper under the circumstances (*o*).

Before preparing any scheme with reference to property required to be applied under any trusts for the provision of dwellings available for the working classes, the court or body who are responsible for making the scheme are required to communicate with the Local Government Board and receive and consider any recommendations made by the Board with reference to the proposed scheme (*p*).

Exemption of certain lodging-houses from inhabited house duty.—The assessment to Inhabited House Duty of any house occupied for the sole purpose of letting lodgings to persons of the working classes, at a charge not exceeding sixpence a night for each person, is to be discharged by the Commissioners upon the production of a certificate (*q*) to the effect that the house is solely constructed and used to afford suitable accommodation for the lodgers, and that due provision is made for their sanitary requirements (*r*).

Sale, etc., of land by body corporate, and of settled land.—See later as to these (*s*).

Section (3).—Compulsory Re-housing of Working Classes in Certain Cases.

Obligation when land taken under statutory powers.—Where any powers are given (*t*) by local Act or Provisional Order, or order having the effect of any Act, to acquire land, whether compulsorily or by agreement, to any authority, company, or person, or where (*t*) any land is so acquired compulsorily under any general Act, other than the Housing Acts, special provisions are made with respect to the provision of dwelling accommodation for persons of the working classes (*u*).

These special provisions are contained in the Schedule to

(*o*) (1909) s. 9 (1).
(*p*) (1909) s. 9 (2).
(*q*) The Customs and Inland Revenue Act, 1890, s. 26 (2), is to apply as far as possible to this certificate ((1909) s. 35 (2)).
(*r*) (1909) s. 35 (1).
(*s*) See p. 113, *post.*
(*t*) After August 14, 1903 ((1903) s. 3).
(*u*) (1903) s. 3, and Sched. See as to Scotland, p. 117, *post.*

the Act of 1903, and are set out in the Appendix (*x*). They are now applicable to Scotland (*y*), subject to necessary modifications (*z*) which will be found noted in the Appendix (*a*), and subject also to the substitution of the date, December 3, 1909, for the date of the commencement of the Act of 1903 (*b*).

Section 4.—Houses, Lands, and Premises acquired under Artizans' Dwellings Acts, 1868 to 1885.

Application to the purposes of Part III.—Dwelling-houses acquired under these Acts, and vested in local authorities at the time of the passing of the principal Act of 1890, are held as if they had been acquired under Part III. of the principal Act. Lands and premises (other than dwelling-houses) acquired in the same way are held as if they had been acquired as the site of an obstructive building (*c*), but they may, with the consent of the Local Government Board, be appropriated for the purposes of Part III. of the principal Act (*d*).

(*x*) Appendix C., p. 198, *post.*
(*y*) (1909) ss. 52, 75, and Sched. VI.
(*z*) (1909) Sched III., and see p. 181, *post.*
(*a*) pp. 198–201, *post.*
(*b*) (1909) s. 53 (10), and see p. 117, *post.*
(*c*) See p. 52, *ante.*
(*d*) (1890) s. 102 (3).

CHAPTER V.

GENERAL PROVISIONS AFFECTING THE LOCAL GOVERNMENT BOARD AND OTHER AUTHORITIES.

SECTION 1.—AFFECTING THE LOCAL GOVERNMENT BOARD.

Appeals to the Local Government Board.—An appeal from the acts of local authorities to the Local Government Board is given in several instances. A landlord may so appeal against a notice to execute works in performance of his implied undertaking as to the condition of houses, or against a demand for the recovery of expenses in connection therewith (*a*); an owner against a closing order (*b*), or a refusal to determine such order (*c*); an owner against a demolition order (*d*); and overseers of a contributory place against an appointment of expenses charged by the rural district council on such contributory place (*e*).

General powers.—Rules to regulate the procedure on appeal, including costs, are to be made by the Local Government Board. On the appeal the Board may make such order as they think equitable, and may confirm, vary, or quash, as they think just, any notice, order, or apportionment appealed from. The order when made is binding and conclusive on all parties (*f*).

Restrictions on powers.—The rules must provide that no appeal shall be dismissed without the Board having previously held a public local inquiry.

The Board may at any stage of the proceedings, and

(*a*) (1909) s. 15 (6), and p. 111, *post.*
(*b*) (1909) s. 17 (3), and p. 42, *ante.*
(*c*) (1909) s. 17 (6), and p. 42, *ante.*
(*d*) (1909) s. 18 (4), and p. 45, *ante.*
(*e*) (1909) s. 31 (2), and p. 83, *ante.*
(*f*) (1909) s. 39 (1).

must, if directed so to do by the High Court, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal (*g*).

Suspension of order, etc., pending or under appeal.—No notice, order, or apportionment against which an appeal is given by the Part of the Act of 1909 relating to the Housing of the Working Classes becomes operative, until either the time for appealing has elapsed without any appeal being made, or, where an appeal has been made, until the appeal has been determined or abandoned. No work may be done, and no proceedings may be taken on any notice, order, or appointment until it becomes operative (*h*).

Security for costs.—The Board may, before considering any such appeal, require the appellant to deposit security for costs to an amount to be fixed by the rules (*i*).

Power to hold local inquiries.—For the purpose of executing their powers (*k*) and duties the Local Government Board may hold local inquiries, and the costs thereof, including the remuneration (*l*) of the inspector, officer, or person employed by the Board and engaged in the inquiry, are to be paid by the local authorities and persons concerned in the inquiry, or by such of them and in such proportions as the Board may direct. The Board may certify the amount of costs, which thereupon becomes a debt to the Crown from the persons rendered liable to pay it (*m*).

For the purpose of any order or local inquiry of the Board the provisions of the Public Health Act, 1875 (*n*), relating thereto, are made applicable (*o*).

Provision for joint action by local authorities.—The Local Government Board, when requested by one of the local

(*g*) (1909) s. 39 (1).
(*h*) (1909) s. 39 (2).
(*i*) (1909) s. 39 (3).
(*k*) (1909) s. 46, Sched. II., inserting in (1890) s. 85 (1) the words "powers and."
(*l*) The maximum of three guineas a day is abolished: *Ibid.* s. 75, and Sched. VI.
(*m*) (1890) s. 85 (1).
(*n*) ss. 293–296, and 298.
(*o*) (1890) s. 85 (2).

authorities concerned, may by order make provisions for local authorities to act jointly for any of the purposes of the Housing Acts, either generally or in any special case. Such provisions will have the same effect as if they were contained in a provisional order made under the Public Health Act, 1875 (*p*), for the formation of a united district (*q*).

Power to require reports from local authorities.—The Local Government Board may call upon a local authority to make a report containing such particulars as to the population of their district and other matters as the Board may direct, and the authority must comply, charging the expenses to such Part of the principal Act as the Board determine.

The power may be exercised in any case where it appears to the Board that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area in order to determine whether any powers under the Housing Acts ought to be put in force in the area or not (*r*).

Power to repeal unreasonable byelaws.—If the erection of dwellings in a borough or urban or rural district for the working classes is unreasonably impeded by the existence of any byelaws with respect to new streets or buildings, the Local Government Board, after satisfying themselves of this by local inquiry or otherwise, may require the local authority to revoke such byelaws, or to make such new byelaws as the Board think necessary for the removal of the impediment.

If the authority fail to do so within three months of the requisition, the Board may revoke such byelaws, and make such new byelaws as they think necessary for the purpose, and such new byelaws will have the same effect as if they had been made by the local authority and confirmed by the Board (*s*).

(*p*) s. 279.
(*q*) (1909) s. 38.
(*r*) (1909) s. 37.
(*s*) (1909) s. 44.

Power to compel authorities to enforce the Housing Acts.—This power has already been dealt with under the various Parts of the Act of 1890 (*t*).

Power to make regulations as to underground sleeping-rooms.—Where a local authority have neglected, after being required by the Local Government Board to do so, to make regulations for the purpose of securing the proper ventilation and lighting of underground sleeping-rooms of a certain character (*u*), or have failed to make such regulations to the approval of the Board, the Board may themselves make such regulations, and these will have the same effect as if they had been made by the local authority with the consent of the Board (*x*).

Power of entry.—See later (*y*).

Power to prescribe forms.—The Local Government Board may by order prescribe the form of any notice, advertisement, or other document, to be used in connection with the powers and duties of a local authority or of the Board; and such forms, or forms as near thereto as possible, must be used (*z*).

Power to dispense with advertisements, etc.—The Board may dispense with the publication of advertisements, or the service of notices, when satisfied that there is reasonable cause for such dispensation. The dispensation may be given either before or after the time required for publication or service, and either unconditionally or upon conditions as to the publication of other advertisements or the service of other notices or otherwise, provided that due care be taken to prevent the interests of persons from being prejudiced by the dispensation (*a*).

(*t*) Under Part I. at pp. 20 and 32, *ante*; under Part II. at p. 68, *ante*; under Part III. at p. 84, *ante*. See also next paragraph for cases of default in making regulations as to underground sleeping-rooms.
(*u*) See p. 39, *ante*.
(*x*) (1909) s. 17 (7), and p. 99, *post*.
(*y*) p. 104, *post*.
(*z*) (1909) s. 41 (1).
(*a*) (1909) s. 41 (2) (3).

SECTION 2.—AFFECTING LOCAL AUTHORITIES.

Powers under the Acts cumulative.—All the powers given by the Housing Acts are in addition to all other powers possessed by the local authority, and nothing in the Act exempts any person from any penalty to which he would have been subject if the Act had not passed, but he cannot be punished twice for the same offence (*b*). On the other hand, the existence of a local Act applicable to any place within the jurisdiction of the local authority does not exempt the authority from the performance of any duty or obligation under the Housing Acts (*c*).

Joint action by local authorities.—See *ante* (*d*).

Power to act by committees.—All local authorities having to exercise powers under the Housing Acts may exercise those powers by committees if they think the purposes can be better regulated and managed by such means. Such committees cannot be authorised to borrow money, make rates, or enter into contracts, and they are subject to all the regulations and restrictions which the local authorities appointing them impose. The committees are to be formed from the members of the local authority, and to be of such number as the authority think proper (*e*).

Restrictions on powers of voting.—A member of any authority or committee beneficially interested in any dwelling-house, building, or land, may not vote upon any resolution or question affecting such property (*f*), under a penalty not exceeding £50, but such vote does not invalidate the resolution or proceeding (*g*).

(*b*) Interpretation Act, 1889, s. 33.
(*c*) (1890) s. 91.
(*d*) p. 92.
(*e*) (1890) s. 81. See also the power of district councils to appoint committees under s. 56 of the Local Government Act, 1894, and the like powers of borough councils under the Public Health Act, 1875, s. 200, and the Municipal Corporations Act, 1882, s. 22.
(*f*) (1890) s. 88 (1), extended to include all parts of the principal Act by (1909) s. 46, and Sched. II.
(*g*) *Ibid.*, s. 88 (2).

Restrictions on acquisition of certain lands.—*Ancient monuments, etc.*—A local authority cannot acquire for the purposes of the Housing Acts any land which is the site of an ancient monument or other object of archæological interest (*h*).

Land of public authorities and undertakings.—A local authority cannot compulsorily acquire, for the purposes of Part III. of the principal Act, any land which is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking (*i*).

Interference with amenity of dwelling-houses.—A local authority cannot take under compulsory powers for the purposes of Part III. of the Act of 1890, any land which at the date of the order forms part of any park, garden, or pleasure ground, or is otherwise required for the amenity or convenience of any dwelling-house (*k*).

Commons, open spaces, allotments.—Where a scheme or order authorises the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to such acquisition or appropriation, is to be provisional only. It is not to have effect unless and until it is confirmed by Parliament, except in cases where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Local Government Board after consultation with the Board of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights, and to the public (*l*). This certificate cannot be given until the Board have given public notice of the proposed exchange, and have afforded opportunities to all persons interested to make representations and objections, and until the Board have, if necessary, held a local inquiry on the subject (*m*).

The scheme or order which authorises the exchange must vest the land so given in exchange in the persons in whom the common or open space was vested, subject to the same

(*h*) (1909) s. 45.
(*i*) (1909) s. 45.
(*k*) (1909) s. 45.
(*l*) (1909) s. 73 (1).
(*m*) (1909) s. 73 (2).

rights, trusts, and incidents as attached to the common or open space, and must discharge the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject (*n*).

In this connection "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1862, and any town or village green; "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act (*o*).

Royal palaces, parks, etc.—If the land proposed to be included in any scheme or order, or proposed to be acquired under the Housing Acts, is situated within a certain distance, to be prescribed by regulations made by the Local Government Board after consultation with the Commissioners of Works (*p*), from any of the royal palaces or parks, the local authority must, before preparing the scheme or order, or acquiring the land, communicate with the Commissioners of Works. The Local Government Board, before confirming the scheme or order, or before authorising the acquisition of the land, or the raising of any loan for the purpose, must take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal (*q*).

Land in London or boroughs or urban districts.—The compulsory acquisition of land in London or boroughs or urban districts under Part III. of the Act of 1890 cannot be ordered until certain conditions have been fulfilled (*r*).

Sale, etc., of dwellings and land optional.—Under no circumstances is it obligatory upon a local authority to sell and dispose of any lands or dwellings acquired or constructed by them for any purpose of the Housing Acts (*s*). The principal Act had provided that where a local authority had erected dwellings out of funds provided under Part I., they

(*n*) (1909) s. 73 (3).
(*o*) (1909) s. 73 (4).
(*p*) (1909) s. 74 (2).
(*q*) (1909) s. 74 (1).
(*r*) See p. 75, *ante*.
(*s*) (1909) s. 40.

must, unless the Local Government Board otherwise determined, sell and dispose of them within ten years from their completion (*t*).

Application of purchase money.—Upon the sale by a local authority of any land acquired by them for any of the purposes of the Housing Acts, the proceeds are applicable for any purpose, including the repayment of borrowed money, for which capital money may be applied, and which is approved by the Local Government Board (*u*).

Power to accept donations of land, etc.—A local authority may accept a donation of land or money or other property for any of the purposes of the Housing Acts, and it is not necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888 (*x*).

Power to provide shops, recreation grounds, etc., in connection with lodging-houses.—The power to provide dwelling accommodation or lodging-houses under the Housing Acts, or any scheme thereunder, carries with it the power to provide beneficial buildings, such as shops, and also recreation grounds (*y*). Reference has already been made to this subject (*z*).

Power to make byelaws.—Besides the special powers already referred to (*a*) by which byelaws may be made for the management of lodging-houses under Part III. of the principal Act of 1890, local authorities are given power by the Public Health Acts to make and enforce byelaws as to houses let in lodgings (*b*) for fixing the number of occupants of a house or part of a house let in lodgings or occupied by members of

(*t*) (1890) s. 12 (5), repealed by (1909) ss. 41, 75, and Sched. VI.
(*u*) (1890) s. 82. As to payments into the Dwelling-house Improvement Fund, see (1890) s. 24 (5), and p. 30, *ante*.
(*x*) (1909) s. 8.
(*y*) (1903) s. 11 (1).
(*z*) See p. 80, *ante*.
(*a*) See p. 81, *ante*.
(*b*) Under the Public Health Act, 1875, s. 90; and in London under the Public Health (London) Act, 1891, s. 94.

more than one family, and requiring the separation of the sexes; for requiring the registration and inspection of such houses; and for providing for their proper sanitation, cleanliness, ventilation, and their cleansing and lime washing; and for taking precautions against infectious diseases.

Where such houses are intended for the working classes, it is now provided that such power extends to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws, and which involves the execution of work) upon the owner within the meaning of the Public Health Acts (*c*), in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged (*d*).

In order to perform this duty, the owner or other person may at all reasonable times enter on any part of the premises, and s. 51 of the principal Act of 1890 (*e*) is made applicable, as if it contained a reference to the provisions of such byelaws, and as if the person on whom such duty is imposed by the byelaws were the owner, and as if any inmate of the premises were the occupier of a dwelling-house (*f*).

If the owner or other person fail to execute any such required work, the local authority or sanitary authority, as the case may be, may, after giving him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses. For this purpose the provisions of sub-section 5 of section 15 of the Act of 1909 (*g*), relating to the execution of works and the recovery and payment of expenses from and by a landlord who defaults in keeping working-class premises in proper condition, are to apply with the necessary modifications (*h*).

Duty to regulate underground sleeping-rooms.—Local authorities must make regulations, to be approved by the

(*c*) For the meaning of owner, see Public Health Act, 1875, s. 4; and Public Health (London) Act, 1891, s. 141.
(*d*) (1909) s. 16 (1).
(*e*) See p. 86, *ante.*
(*f*) (1909) s. 16 (2).
(*g*) p. 111, *post.*
(*h*) (1909) s. 16 (3).

Local Government Board, for securing the proper ventilation and lighting of underground sleeping-rooms of a certain character (*i*), and for the protection thereof against dampness, effluvia, or exhalation (*k*).

If they neglect to do so the Board may make such regulations (*l*).

Duty of county councils to establish public health and housing committee (*m*).—Every county council (*m*) is required to establish a public health and housing committee. To such committee are to stand referred all matters relating to the exercise and performance by the council of their powers and duties as respects public health and the housing of the working classes, except the power of raising a rate or borrowing money.

Except in cases which they regard as urgent, the county council are required, before exercising any such powers, to receive and consider the report of the committee with respect to the matter in question.

The council may delegate to the committee, with or without restrictions or conditions, any of their powers as respects public health and the housing of the working classes, except the power of raising a rate or borrowing money, and except, also, any power of resolving that the powers of a rural district council in default should be transferred to the council (*n*).

Duty of county councils to appoint medical officers of health (*o*).—County councils were given power by the Local Government Act, 1888 (*p*), to appoint medical officers of health. The appointment of such officer is now made compulsory, and the power of county councils and district councils under the above-mentioned section to make arrange-

(*i*) See p. 39, *ante*.
(*k*) (1909) s. 17 (7).
(*l*) See p. 94, *ante*.
(*m*) This section is not applicable to the London County Council or to Scotland ((1909) s. 71 (2)).
(*n*) (1909) s. 71 (1). As to this transfer, see p. 84, *ante*.
(*o*) The provisions contained under this heading have no application to Scotland or to the administrative county of London ((1909) s. 70)), except in the latter case as to the power of entry, see p. 101, *post*.
(*p*) s. 17.

ments with respect to such officers is abolished, without prejudice to arrangements made previously to December 3, 1909 (*q*). A person appointed after this date to the office cannot engage in private practice or hold any other public appointment without the express written consent of the Local Government Board (*r*).

The duties of medical officers appointed by county councils are to be such as may be prescribed by general order of the Local Government Board, and such other duties as may be assigned to them by the county councils (*s*).

This order must be communicated to the county council and be laid before Parliament as soon as possible after it is made. If an address be presented to His Majesty by either House within twenty-one days on which that House has sat next after the order has been laid before it, praying that it may be annulled, His Majesty in Council may annul the order, and it thereupon becomes void, but without prejudice to the validity of anything previously done under it (*t*).

Whatever statutory power of entry on premises a medical officer of health of a district has is also possessed by the medical officer of a county for the purposes of his duties (*u*). This is the only part of the provisions of the new Act relating to medical officers which applies to the administrative county of London (*x*), and in this connection the reference to a medical officer of health of a district is to be construed as a reference to the medical officer of health of a metropolitan borough (*y*).

The medical officer so appointed is removable by the county council, but only with the consent of the Local Government Board (*z*). He cannot be appointed for a limited period only, but the county council may, with the sanction of the Local Government Board, make any temporary arrangement for

(*q*) (1909) ss. 68 (1) and (3), 75 and Sched. VI. The date of the passing of the Act of 1909.
(*r*) (1909) s. 68 (7).
(*s*) (1909) s. 68 (2).
(*t*) (1909) s. 68 (8).
(*u*) (1909) s. 68 (4).
(*x*) This includes the City ((1890) s. 93).
(*y*) (1909) s. 70.
(*z*) (1909) s. 68 (5).

the performance of all or any of the duties of the medical officer of health of the county, and any person so appointed to perform such duties has, subject to the terms of his appointment, the powers, duties, and liabilities of the medical officer of health of the county (*a*).

Provision is made for the medical officers of county and district councils to work together. It has already been stated (*b*) that a clerk of a rural district council must forward to the medical officer of health of the county a copy of any representation, complaint, or information, which it is the duty of the district council to forward to the county council (*c*). Beyond this, the medical officer of health of a district is required to give to the medical officer of health of the county any information which it is in his power to give, and which may reasonably be required from him by the latter for the purposes of his duties prescribed by the Local Government Board (*d*). Any failure to comply with the above requirements renders the clerk or medical officer of health of the district liable on summary conviction to a fine for each offence not exceeding £10, but only if the information be laid by the county council (*e*).

In case of disputes between the clerk or the medical officer of health of a district council and the medical officer of health of the county council, such disputes are to be referred and to be finally settled by the Local Government Board (*f*).

Power of county councils to form or assist building societies.—A county council may promote the formation or extension of societies on a co-operative basis, having for their object, or one of their objects, the erection or improvement of dwellings for the working classes (*g*).

They may also assist such societies. The assistance may take the form of grants or advances to the society, or of a guarantee of advances made by the society, upon such terms and conditions as to rate of interest and repayment, or otherwise, and on such security as the council think fit. The

(*a*) (1909) s. 68 (6). (*b*) pp. 38, 41, and 49, *ante*.
(*c*) Under s. 45 (1) of the Act of 1890.
(*d*) (1909) s. 69 (2). (*e*) (1909) s. 69 (4).
(*f*) (1909) s. 69 (3). (*g*) (1909) s. 72 (1).

making of such grants or advances is a purpose for which the council may borrow.

Such assistance can, however, be granted only with the consent of the Local Government Board, and subject to the regulations of the Board, and these latter must provide that any advance made on the security of any property shall not exceed two-thirds of the value of the property (*h*).

Payment of money on purchase by authority from another authority.—Any purchase money or compensation payable by the local authority in respect of any lands, estate, or interest of another local authority which would otherwise be paid into court in manner provided by the Lands Clauses Acts (*i*), or by paragraph (20) of Sched. II. (*k*) of the principal Act may, with the consent of the Local Government Board, instead of being paid into court, be paid and applied as the Board determine (*l*), and the decision of the Board is final and conclusive (*m*).

Exemptions from certain taxes and rates.—Under s. 133 of the Lands Clauses Act, 1845, when the promoters of an undertaking take land they are required to make good any deficiency in the land tax and poor rate thereby occasioned, and this section was formerly applicable to the taking of land for housing purposes. It is, however, now expressly enacted that this section shall not apply in the case of any lands which a local authority become possessed of by virtue of the Housing Acts (*n*).

Certain lodging-houses are also exempt from inhabited house duty (*o*).

Accounts and audit.—Separate accounts must be kept by the local authority and their officers of their receipts and expenditure under each part of the Act, and they are to be audited in the usual manner of accounts of the authority, and with the like incidents and consequences (*p*).

(*h*) (1909) s. 72 (2).
(*i*) See note (*z*) on p. 62, *ante*.
(*k*) See Appendix, 90, *post*.
(*l*) (1909) s. 5 (1).
(*m*) (1909) s. 5 (2).
(*n*) (1909) s. 34.
(*o*) See p. 89, *ante*.
(*p*) (1890) s. 80 (1) and (2).

Where land acquired under Part III. is appropriated for re-housing persons displaced by the council under the powers of any other part of the Act, or of any other enactment, the receipts and expenditure of that land (including all costs in respect of the acquisition and laying out of the land), and of any buildings erected on it, may be treated as receipts and expenditure under that part or enactment, but must be accounted for under a separate head (*q*).

Power of entry.—Power of entry is given—

(1) For the purpose of survey or valuation, in the case of houses, premises, or buildings which a local authority are authorised to purchase compulsorily;

(2) For the purpose of survey and examination, in the case of any dwelling-house in respect of which a closing or demolition order has been made;

(3) For the purpose of survey and examination, where it appears to the authority or Local Government Board that such is necessary in order to determine whether any powers under the Housing Acts should be exercised in respect of any house, premises, or building (*r*).

The authority to enter must be given by the local authority or the Local Government Board in writing, stating the particular purposes for which the entry is authorised (*s*).

The person so authorised may make entry at all reasonable times, on giving twenty-four hours' notice of his intention to the occupier and to the owner, if the latter be known; and the notice to the occupier may be given by leaving a notice addressed to him, without name or further description, at the house, building, or premises (*t*).

Orders, notices, etc., of local authority.—Orders in writing made by a local authority are to be under their seal and authenticated by the signature of their clerk or his lawful deputy (*u*). Such signature is also required for all

(*q*) (1900) s. 4.
(*r*) (1909) s. 36.
(*s*) *Ibid.*
(*t*) (1909) s. 36. See also p. 64, *ante.*
(*u*) (1890) s. 86 (1). See as to Scotland, *ibid.*, s. 96 (15), and p. 122, *post.*

notices, demands, and other written documents proceeding from the local authority (*x*).

Service of notices, etc., on local authority.—Every notice, summons, writ, or other proceeding at law or otherwise may be served upon the local authority by delivering the same to their clerk, or by leaving it at his office with some person employed there (*y*), or by sending it by post in a registered letter addressed to the authority or their clerk at the office of the authority (*z*).

Publication in lieu of "London Gazette."—Where the Acts require publication in the *London Gazette* of any scheme, order or draft scheme or order, or any notice thereof, it is sufficient, in lieu of this, to insert a notice, giving short particulars thereof and stating where copies can be inspected or obtained, in two local newspapers circulating in the area affected, or to give notice thereof in such other manner as the Local Government Board determine (*a*).

Penalties for obstruction.—Any person who obstructs the medical officer of health, or any officer of the local authority or of the Local Government Board (*b*), or any person authorised to enter dwelling-houses, premises, or buildings in pursuance of the Act (*c*), in the performance of anything which such officer or authority or person is by the Act required or authorised to do, is liable on summary conviction (*d*) to a fine not exceeding £20 (*e*).

Punishment of offences and recovery of fines.—All offences under the Housing Acts punishable on summary

(*x*) (1890) s. 86 (2).
(*y*) (1890) s. 87.
(*z*) (1903) s. 13 (2).
(*a*) (1909) s. 42. The only reference to the *London Gazette* appears now to be in Sched. II. of (1890), par. 31. See p. 195, *post*.
(*b*) The section says "confirming authority," but this is now in every case the Local Government Board. See p. 13, *ante*.
(*c*) (1909) s. 46 and Sched. II. See Power of Entry, p. 104, *ante*.
(*d*) In manner provided by the Summary Jurisdiction Acts ((1890) s. 90).
(*e*) (1890) s. 89.

conviction may be prosecuted and fines recovered in England as provided by the Summary Jurisdiction Acts (*f*).

Section 3.—Affecting Public Works Loan Commissioners.

Loans to local authorities.—The following new provisions have been made by the new Act in respect of any such loans under the Housing Acts (*g*).

The loan is to be at the minimum rate allowed for the time being for loans out of the Local Loans Fund; the period for which the loan is made may exceed, if the Local Government Board make a recommendation to that effect, the period allowed under any existing Act limiting such periods, but the period allowed must not exceed that recommended by the Board, nor a maximum of eighty years; as between loans for different periods, the longer duration of the loan is not to be taken as a reason for fixing a higher rate of interest (*g*).

(*f*) (1890) s. 90. See as to Scotland, p. 123, *post*.
(*g*) (1909) s. 3.

CHAPTER VI.

PROVISIONS DIRECTLY AFFECTING PROPERTY OWNERS.

Scope of chapter.—All the provisions of the Housing Acts affect property owners in the sense that they are amenable and subject to such provisions. But there are certain provisions which limit and govern the rights hitherto possessed by such owners, and which may therefore be usefully grouped together as being of peculiar and more direct interest to them.

Section 1.—Condition of Small Dwelling-houses.

Conditions previously implied in letting working-class habitations.—Before dealing with the new and very important provisions of the Act of 1909, relating to the obligations of owners of properties let for habitation, to keep such properties in repair, and to the provisions of that Act made to secure a compliance with such obligations, it is necessary to state shortly what those obligations were, under contracts of letting made before the Act of 1909 was passed. Those obligations will continue, notwithstanding the new provisions, so long as the contracts under which they arise are in existence.

Under contracts made between August 14, 1885, *and August* 14, 1903.—In the case of contracts for letting for habitation by persons of the working classes of a house or part of a house, when such contracts were made between the above dates, there was, and if the contract still continues is, an implied condition that the house was, at the commencement of the holding, in all respects reasonably fit for human habitation (*a*). The properties to which the provision refers are those the rent of which does not exceed :

(*a*) (1890) s. 75.

£20 in the metropolis;
£13 in Liverpool;
£10 in Manchester or Birmingham;
£8 elsewhere in England;
£4 in Scotland (*b*).

The parties were able to contract out of this implied condition.

Under contracts made between August 14, 1903, *and December* 3, 1909.—Under these contracts the provisions as to implied conditions equally applied, but it was provided that any agreement to the contrary should be null and void; that is to say, that the parties could not contract out of the statutory obligation (*c*). This provision will continue to apply to contracts made after December 3, 1909 (*d*).

Conditions implied under tenancies made after December 3, 1909.—In the case of agreements made after this date (*e*) for letting for habitation (*f*) of a house or part of a house, at a certain rental, two conditions are to be implied:

1. *That the house is at the commencement of the holding in all respects reasonably fit for habitation* (*g*);

2. *That the landlord undertakes that the house shall, during the holding, be kept by him in all respects reasonably fit for human habitation* (*h*).

Tenancies to which the conditions apply.—The lettings to which the above conditions apply are lettings for habitation of a house, or part of a house, at a rent not exceeding—

£40 in the administrative county of London (*i*);
£26 in a borough or urban district with a population of 50,000 and upwards according to the last census;
£16 elsewhere (*k*).

(*b*) (1890) s. 75, and the Poor Rate Assessment and Collection Act, 1869, s. 3, referred to in the section.
(*c*) (1903) s. 12. See as to Scotland, p. 117, *post*.
(*d*) See p. 109, *post*.
(*e*) The date of the passing of this Act.
(*f*) As originally drafted the Bill here contained the words "by persons of the working classes." These were subsequently struck out.
(*g*) (1909) s. 14.
(*h*) (1909) s. 15 (1).
(*i*) This term includes the City of London ((1890) s. 93).
(*k*) (1909) s. 14. This limit of £16 is the limit of rent applicable to Scotland ((1909) s. 53 (15)).

Tenancies to which the conditions do not apply.—The conditions are not implied when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term (*l*).

No contracting out.—The statute of 1909 does not expressly say that the parties to agreements made after December 3, 1909, shall not contract out of its provisions. But it does provide that any of its provisions which supersede or amend any provisions of the principal Act are to be deemed to be part of that Part of the Act in which the provisions superseded or amended are contained (*m*), and it also provides that those of its provisions which are contained in Part I. of it (*n*), are to be construed as one with the Housing of the Working Classes Acts, 1890 to 1903 (*o*). Reading all these Acts as one Act, and substituting the provisions now under discussion for the provisions contained in the Act of 1890, it becomes clear that the section of the Act of 1903, which is unrepealed and which forbids contracting out by any agreement made after its passing, applies as before. Any agreement, therefore, made after December 3, 1909, which seeks to evade the liability of the conditions implied by the Act of 1909 will be void.

Results of breaches of the implied conditions.—*Right of action by tenant.*—Under contracts made before December 3, 1909, the only result of a breach of the implied condition was to give the tenant who was damnified by the breach a right of action for such breach. Thus, it was held that where a ceiling, which was insecure at the commencement of the letting, subsequently fell and injured the tenant's wife, the tenant and his wife as co-plaintiffs could recover damages against the landlord (*p*). No power was given to the local authority to interfere, unless, of course, the condition of the house was such as to entitle them to proceed on the ground

(*l*) (1909) s. 14.
(*m*) (1909) s. 47 (1).
(*n*) Namely, that Part headed "Housing of the Working Classes."
(*o*) (1909) s. 76 (1).
(*p*) *Walker* v. *Hobbs*, 23 Q.B.D. 458.

of a nuisance under the Public Health Acts, or to proceed under the powers conferred upon them by the Housing Acts in respect of unhealthy dwellings.

Under the provisions of the new Act the tenant will still have his remedies either at common law or otherwise by action against his landlord for breaches of either of the two implied conditions (*q*), but beyond this the local authority are given power to interfere when the landlord does not comply with his implied undertaking to *keep* the premises in the condition stated.

Proceedings by local authority.—In the event of the second implied condition not being complied with, the local authority within the meaning of Part II. of the principal Act (*r*) may do one of two things:

(1) They may make a closing order under the Housing Acts with respect to the house, assuming that its condition is such as to justify such an order (*s*);

(2) If no closing order is made, they may serve the landlord with a written notice requiring him, within a reasonable time specified in the notice and not being less than twenty-one days, to execute such works as shall be specified in the notice as being necessary to make the house (*t*) in all respects reasonably fit for human habitation (*u*).

By the landlord is meant any person who lets the house to a tenant for habitation under any contract to which the implied condition is attached, and includes his successors in title (*x*).

Service of the notice is to be effected as provided by the Act of 1890 in ss. 49 and 50 as amended by the Act of 1903, substituting the landlord for the owner of a dwelling-house (*y*). It will be sufficient to serve the "landlord" as such without any name or further description (*z*).

Right of landlord on receipt of notice.—Within twenty-one

(*q*) (1909) s. 15 (9), expressly reserving such remedies.
(*r*) (1909) s. 15 (3). See p. 11, *ante*.
(*s*) As to closing orders, see p. 39, *ante*.
(*t*) This includes part of a house ((1909) s. 15 (7)).
(*u*) (1909) s. 15 (3).
(*x*) (1909) s. 15 (7).
(*y*) (1909) s. 15 (8). As to such service, see p. 35, *ante*.
(*z*) (1890) s. 50, applied by (1909) s. 15 (8), and see p. 36, *ante*.

days of receiving the above notice the landlord may by written notice to the local authority declare his intention of closing the house for human habitation, and thereupon a closing order is deemed to have become operative in respect of the house (*a*).

Effect of disobedience.—In the event of non-compliance with the notice given by the authority, and in the absence of a notice by the landlord as last described, the local authority may, at the expiration of the specified time, do the required work and recover the expenses incurred by them from the landlord as a civil debt under the Summary Jurisdiction Acts; or they may declare such expenses to be payable by annual instalments within a period not exceeding that of the interest of the landlord in the house, nor in any case five years, with interest at a rate not exceeding 5 per centum per annum until the whole amount is paid. Instalments or interest, or any part thereof, may be recovered from the landlord as a civil debt in like manner as expenses (*b*).

Appeal by landlord.—A landlord may appeal to the Local Government Board against a notice by the authority to execute works, or against a demand for the recovery of expenses, or against an order made by the authority with respect to such expenses. To do this he must give notice of appeal to the Board within twenty-one days after the notice is received, or the demand or order is made. No further proceedings can be taken by the local authority whilst the appeal is pending (*c*).

Power of entry.—For the purpose of viewing the state and condition of any house in respect of which the above conditions of tenancy are implied, the landlord or the local authority, or any person authorised by him or them in writing, may at all reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier, enter any such house, premises, or building (*d*).

(*a*) (1909) s. 15 (4).
(*b*) (1909) s. 15 (5).
(*c*) (1909) s. 15 (6). See generally as to appeals, p. 91, *ante*.
(*d*) (1909) s. 15 (2).

Section 2.—Restrictions on Building and User of Buildings.

Back-to-back houses.—The erection of back-to-back houses intended to be used as dwellings for the working classes (*e*) is forbidden, notwithstanding anything in any local Act or byelaw. Any such house commenced to be erected after the passing of the Act of 1909 (*f*) is, subject to certain exceptions, to be deemed to be unfit for human habitation for the purposes of the provisions of the Housing Acts (*g*).

The exceptions to this provision are two (*h*):

In the first place, the section is not to prevent the erection or use of a house containing several tenements placed back-to-back, if the medical officer of health for the district certifies that the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement (*i*).

In the second place, the section is not to apply to houses abutting on any streets the plans whereof have been approved by the local authority before May 1, 1909, in any borough or district in which, on December 3, 1909, any local Act or byelaws are in force permitting the erection of back-to-back houses.

Building on site cleared under demolition order.—This has already been mentioned (*k*).

Underground sleeping-rooms.—From and after July 1, 1910, a room which is habitually used as a sleeping place, and the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, is to be deemed to be a dwelling-house so dangerous or injurious to health as to be unfit for human habitation, and therefore liable to a closing order by the

(*e*) For description, see p. 9, *ante*.
(*f*) *I.e.* December 3, 1909.
(*g*) (1909) s. 43.
(*h*) (1909) s. 43.
(*i*) (1909) s. 43 (*a*).
(*k*) See p. 52, *ante*.

local authority (*l*) when either of the following conditions exists:

When the room is not on an average at least seven feet in height from floor to ceiling; or

When it does not comply with such regulations as the local authority with the consent of the Local Government Board have prescribed (*m*) for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation (*n*).

Section 3.—Miscellaneous.

Sale, etc., of land by body corporate.—Power is given by the Lands Clauses Act, 1845, to corporations to sell and convey land by agreement to the promoters of an undertaking (*o*), but they are required in that event to have the value determined by two able practical surveyors with the assistance of a third surveyor in event of the two disagreeing (*p*). The principal Act of 1890 amends the above provision in favour of lands required for the erection of dwellings for the working classes, and empowers bodies corporate to sell, exchange, or lease land for such purpose, at such price, and for such consideration, or for such rent as, having regard to the said purpose and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for another purpose (*q*).

Sale and improvements of settled land for housing purposes.—*Sale, lease, etc.*—Certain alterations have been made in the provisions of the Settled Land Act, 1882, in favour of land which is to be sold for the purpose of the

(*l*) Under (1909) s. 17. See p. 39, *ante*.
(*m*) Or which the Board have prescribed on failure of the local authority to do so; see p. 94, *ante*.
(*n*) (1909) s. 17 (7). See as to a closing order in respect of such rooms and its effect, p. 41, *ante*.
(*o*) s. 7.
(*p*) s. 9.
(*q*) (1890) s. 74 (2).

Housing Acts. By the former Act a sale by a tenant for life must be for the best price reasonably obtainable, and an exchange must be for the best consideration in land, or land and money, reasonably obtainable (*r*); and a lease must reserve the best rent reasonably obtainable (*s*).

But under the Housing Acts, any sale, exchange, or lease of land when made for the purpose of the erection on such land of dwellings for the working classes, may be made at such price, or for such consideration, or for such rent, as having regard to the said purpose, and to all the circumstances of the case, is the best that can be reasonably obtained, notwithstanding that a higher price, consideration, or rent might have been obtained if the land were sold, exchanged, or leased for some other purpose (*t*).

Improvements.—An extension is made by the Act of 1909 in the improvements on which capital money arising under the Settled Land Act, 1882, may be expended.

Under this last-named Act capital money arising under the Act might be applied in certain authorised improvements, among which was the erection of cottages for labourers, farm servants, and artisans, whether employed on the settled land or not (*u*).

The principal Act of 1890 repeated these last-named improvements and added to them the erection of any dwellings available for the working classes, the building of which, in the opinion of the Court, was not injurious to the estate (*x*).

This provision is now superseded and a new paragraph is substituted covering the following improvements:

(1) Cottages for labourers, farm servants, and artisans, whether employed on the settled land or not; and

(2) The provision of dwellings available for the working classes, either by means of building new buildings or by means of the reconstruction, enlargement, or improvement

(*r*) s. 4.

(*s*) s. 7.

(*t*) (1890) s. 74 (1) (*a*). As to the meaning of "working classes" for the purpose of the application of this section, see p. 115, *post*.

(*u*) Settled Land Act, 1882, ss. 21 and 25. See also s. 30, which extends the Improvement of Land Act, 1864, s. 9, so as to cover the improvements mentioned in s. 25 of the Act of 1882.

(*x*) (1890) s. 74 (1) (*b*).

of existing buildings, so as to make them available for the purpose, if that provision of dwellings is, in the opinion of the Court, not injurious to the estate or is agreed to by the tenant for life and the trustees of the settlement (*y*).

The provision by a tenant for life, at his own expense, of dwellings available for the working classes on any settled land, is not in any case to be deemed an injury to any interest in reversion or remainder in that land; but the powers just mentioned cannot be exercised by a tenant for life without the previous approval in writing of the trustees of the settlement (*z*).

Meaning of "working classes."—It is enacted that these provisions relating to sale, exchange, leases, and improvements of settled land (*a*) are to have effect as if the expression "working classes" included all classes of persons who earn their livelihood by wages or salaries; but this only applies to buildings of a rateable value not exceeding £100 per annum (*b*).

(*y*) (1909) s. 7 (1).
(*z*) (1909) s. 7 (2).
(*a*) Namely, (1890) s. 74 (1) (*a*), and (1909) s. 7 (1), which are now the provisions substituted for s. 11 of the Housing of the Working Classes Act, 1885.
(*b*) Settled Land Act, 1890, s. 18.

CHAPTER VII.

APPLICATION OF THE HOUSING ACTS TO SCOTLAND.

Section 1.—Modifications of Provisions.

Acts relating to nuisances.—These mean as respects any place the Public Health (Scotland) Act, 1897, and the Local Government (Scotland) Act, 1889, and amending Acts, and any local Act which contains any provisions with respect to nuisances in that place (*a*).

Appeal from order of local authority under Part II. (*b*) —Such an appeal is to the sheriff, and the same procedure is to apply as on an appeal from the sheriff substitute to the sheriff, but with the same provisos as apply to the appeal in England from the order of the local authority to a court of quarter sessions (*c*). The provisos referred to are those requiring notice of appeal to be given within one month after service of the notice of the order (*d*), and requiring the court on request to state the facts specially for the determination of a superior court, and thereupon enabling the proceedings to be removed into that court (*e*).

The appeal is limited to cases in which no appeal lies to the sheriff under the Act of 1909 (*f*).

Appeal to Sheriff instead of Local Government Board. —The provisions of the Act of 1909 relating to appeals to the Local Government Board (*g*) apply, but with the

(*a*) (1909) s. 53 (8).
(*b*) See pp. 42, 45, and 91, *ante*.
(*c*) (1890) s. 95 (3).
(*d*) (1890) s. 35 (2) (*a*).
(*e*) (1890) s. 35 (2) (*b*).
(*f*) (1909) s. 53 (14). See p. 117, *post*.
(*g*) (1909) s. 39. See p. 91, *ante*.

substitution of the sheriff for the Local Government Board, and of the Court of Session for the High Court (*h*).

The power to make rules under s. 39 of the Act of 1909 is to be exercised by the Court of Session by act of sederunt (*i*).

When an appeal lies to the sheriff, no other appeal lies under s. 35 of the principal Act of 1890 (*k*).

The provision in s. 39 (1) (*b*) of the Act of 1909, that an appeal shall not be dismissed without a public local inquiry has been held, does not apply to appeals in Scotland (*l*).

Application of the Act of 1903.—Of the Act of 1903 it is enacted to the following effect (*m*):

Section 1, relating to loans (*n*); s. 4, sub-s. 1, relating to the failure of an authority to make a scheme (*o*); and s. 10, relating to the recovery of possession from occupying tenants in pursuance of closing orders (*p*), do not apply.

Section 3, relating to re-housing obligations when land is taken under statutory powers (*q*); and s. 12, forbidding contracting out of conditions implied in contracts for letting houses to the working classes (*r*), do apply with the substitution of the date of the passing of the Act of 1909 (*s*) for the date of the passing of the Act of 1903.

The Schedule to the Act of 1903 applies with certain modifications (*t*) which are embodied in notes to this Schedule printed in the Appendix (*u*).

"As a civil debt in manner provided by the Summary Jurisdiction Acts."—Means in a summary manner (*x*).

(*h*) (1909) s. 53 (14). See as to appeals from closing and demolition orders, p. 118, *post*.
(*i*) *Ibid.* (*k*) *Ibid.*, and see p. 91, *ante*.
(*l*) (1909) s. 53 (14). See p. 91, *ante*.
(*m*) (1909) s. 53 (10).
(*n*) See p. 31, *ante*. (*o*) See p. 21, *ante*.
(*p*) See p. 43, *ante*. (*q*) See p. 89, *ante*.
(*r*) See p. 108, *ante*.
(*s*) *I.e.* December 3, 1909.
(*t*) Contained in Sched. III. of the Act of 1909, p. 181, *post*.
(*u*) Appendix C., p. 198, *post*. (*x*) (1909) s. 53 (17).

Attorney-General.—The Lord Advocate is substituted for the Attorney-General (*y*).

Borrowing powers.—A local authority may, with the consent of the Local Government Board for Scotland, borrow money for the purposes authorised in the Housing Acts on the security of the local rate in the same manner and subject to the same conditions, as nearly as may be, as they may borrow for the provision of permanent hospitals under the Public Health (Scotland) Act, 1897; provided that all money so borrowed shall, notwithstanding the terms of s. 141 of that Act, be wholly repaid together with the accruing interest within such period not exceeding eighty years from the date of the loan as the said Board may determine in each case (*z*).

Charging order.—A charging order under Part II. is to be recorded in the appropriate register of sasines (*a*).

Closing and demolition orders.—Sections 17 and 18 of the Act of 1909, relating respectively to these orders, apply with the substitution of the sheriff for the Local Government Board, except as regards the making of, and consenting to, regulations relating to underground sleeping-rooms (*b*).

Appeals from such orders therefore lie to the sheriff, and the provisions of the principal Act as to appeals (*c*) are not applicable (*d*).

See *post* as to the proceedings available when the local authority are in default under these sections (*e*).

Contracts for letting small dwellings.—In applying s. 14 of the Act of 1909 (*f*) the limit of rent is to be £16 (*g*). As to the provision against contracting out, see *ante* (*h*).

(*y*) (1909) s. 53 (2). See p. 88, *ante*.
(*z*) (1909) s. 53 (6).
(*a*) (1890) s. 95 (1). See p. 47, *ante*.
(*b*) (1909) s. 53 (14). See as to these regulations, pp. 94 and 99, *ante*.
(*c*) (1890) s. 35.
(*d*) (1909) s. 53 (14).
(*e*) p. 120, *post*.
(*f*) Which relates to the conditions to be implied on such lettings; see p. 108, *ante*.
(*g*) (1909) s. 53 (15). (*h*) p. 109.

Section 15, relating to the condition as to keeping such dwellings in repair, applies with the substitution of the sheriff as the tribunal for appeal in place of the Local Government Board, and this is the only method of appealing from the order or notice or demand of the local authority (*i*).

"**Contributory place.**"—This means a parish (*k*).

County councils.—Section 13 of the Act of 1909, which enables the Local Government Board to confer upon a county council the powers under Part III. of a local authority in a rural district (*l*), does not apply to Scotland (*m*).

Wherever a county council is mentioned in Part III. of the Act of 1890 as amended, and in s. 5 of the Act of 1900, the Local Government Board for Scotland is to be substituted (*n*).

"**Court of summary jurisdiction.**"—This means the sheriff or any two justices of the peace sitting in open court, or any magistrate or magistrates within the meaning of the Summary Jurisdiction Acts (*o*).

Court of quarter sessions.—Means the sheriff (*p*).

Defaulting authorities.—Special provisions are enacted to deal with the case of local authorities in Scotland who make default in the performance of their duties under the Acts.

Section 10 of the Act of 1909, relating to the powers of the Local Government Board, on complaint, to enforce the exercise of powers (*q*); s. 11, relating to the powers of the Board to order schemes, etc., to be carried out (*r*); and s. 12,

(*i*) (1909) s. 53 (14), and see p. 110, *ante*.
(*k*) (1890) s. 96 (9).
(*l*) See p. 71, *ante*.
(*m*) (1909) s. 53 (13).
(*n*) (1909) s. 53 (1), and see p. 121, *post*.
(*o*) (1890) s. 96 (10). See also prosecution of offences, p. 123, *post*.
(*p*) (1890) s. 96 (6).
(*q*) See pp. 69 and 84, *ante*.
(*r*) See pp. 32 and 69, *ante*, and (1903) s. 4 (1), p. 117, *ante*.

relating to the power of county councils to act in default of rural district councils (*s*) do not apply (*t*).

Where a local authority have failed to exercise their powers under Part II. or Part III. in cases where these powers ought to have been exercised, complaint may be made to the Local Government Board for Scotland. If the complaint is made in respect of the district of a local authority not being a town council, it may be made by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four inhabitant householders of the district. If made in respect of any other district, it may be made by any four inhabitant householders of the district.

The Board may thereupon cause a public local inquiry to be held, and if satisfied of the failure the Board may, with the approval of the Lord Advocate, apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are authorised and directed to do therein and to dispose of the expenses of the proceedings as may appear just (*u*).

Where it appears to the Board that a local authority have failed to perform their duty of carrying out an improvement scheme under Part I. of the principal Act, or have failed to make, or if made, to give effect to, any order as respects an obstructive building, or any reconstruction scheme under Part II. of that Act, or have failed to cause to be made inspection of their district as required by the Act (*x*), the Board may apply by summary petition as above described, and the Division or Lord Ordinary have the powers above mentioned (*y*).

In the case of default by an authority under ss. 17 and 18 of the Act of 1909, relating respectively to closing and demolition orders, s. 146 of the Public Health (Scotland) Act, 1897, prescribing the procedure if the local authority neglect their duty, applies as if the duties imposed upon a local authority

(*s*) See p. 84, *ante*.
(*t*) (1909) s. 53 (11), (12), and (13).
(*u*) (1909) s. 53 (11).
(*x*) See p. 36, *ante*.
(*y*) (1909) s. 53 (12).

by ss. 17 and 18 of the Act of 1909 were duties imposed by that Act (*z*).

"**District.**"—The district for the purposes of the Public Health (Scotland) Act, 1897, is the district for the purposes of the Housing Acts (*a*).

"**Executors, administrators, or assigns.**"—This means heirs, executors, or assignees (*b*).

Lands Clauses Consolidation Act, 1845.—A reference to this Act is to be construed to mean a reference to the corresponding sections of the Lands Clauses Consolidation (Scotland) Act, 1845 (*c*).

Where a dispute under the Housing Acts is to be settled by two justices in manner provided by the Lands Clauses Acts in cases where the compensation claimed in respect of lands does not exceed £50, such dispute is to be settled by the sheriff in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in similar cases (*d*).

"**Local authority.**"—The local authority for the purposes of the Public Health (Scotland) Act, 1897, is the local authority for the purposes of the Housing Acts (*e*).

Local Government Board.—The Local Government Board for Scotland must, except as otherwise provided (*f*), be substituted for the Local Government Board, and must also in Part III. of the principal Act as amended (*g*), and in s. 5 of the Act of 1900 (*h*), be substituted for the county council (*i*).

Local inquiries.—For the purpose of local inquiries ordered by the Local Government Board for Scotland under

(*z*) (1909) s. 53 (14).
(*a*) (1909) s. 53 (5).
(*b*) (1890) s. 96 (11).
(*c*) (1890) s. 94 (1).
(*d*) (1890) s. 94 (2). Such cases arise under s. 38 (9) of the Act of 1890, p. 54, *ante*.
(*e*) (1909) s. 53 (5).
(*f*) The sheriff is substituted in some cases. See (1909) s. 53 (14), and pp. 116, 117, and 118, *ante*.
(*g*) See p. 84, *ante*.
(*h*) See p. 79, *ante*.
(*i*) (1909) s. 53 (1).

the Housing Acts, ss. 7–10 of the Public Health (Scotland) Act, 1897, apply, except so far as inconsistent with the provisions of s. 85, sub-s. (1) of the principal Act (*k*).

"**Local rate.**"—The public health general assessment under the Public Health (Scotland) Act, 1897, is the local rate for the purposes of the Housing Acts (*l*).

Such local rate is not to be reckoned in any calculation as to the statutory limit of the public health general assessment (*m*).

A local authority not being a town council may, where so authorised by the Local Government Board for Scotland in terms of the Housing Acts, assess and levy such local rate upon all lands and heritages within one or more of the parishes or special districts comprised in their district, to the exclusion of other parishes or special districts within the district (*n*).

"**London Gazette.**"—For this, substitute the *Edinburgh Gazette* (*o*).

Medical officer of health.—This expression means medical officer (*p*).

"**Mortgage.**"—Means bond and disposition in security (*q*).

Orders of local authority.—An order in writing made by a local authority, where such authority have not a seal, is to be authenticated by the signature of any two or more members of the local authority and of their clerk or his lawful deputy (*r*).

"**Overseers.**"—Means parish council (*s*).

"**Paid into court.**"—Means "paid into bank" (*t*).

"**Person entitled to the first estate of freehold in.**"—This expression means "owner of" (*u*).

(*k*) (1909) s. 53 (9). For this sub-section, see p. 92, *ante*.
(*l*) (1909) s. 53 (5). (*m*) *Ibid.*
(*n*) (1909) s. 53 (5). (*o*) (1890) s. 96 (3).
(*p*) (1890) s. 96 (4). (*q*) (1890) s. 96 (12).
(*r*) (1890) s. 96 (15). (*s*) (1909) s. 53 (17).
(*t*) (1909) s. 53 (17). (*u*) (1890) s. 96 (5).

Powers of county councils under Part II.—The provisions of Part II. relating to the powers of county councils (*x*) do not apply (*y*).

Private improvement expenses.—Provisions relating to these and to the defraying thereof are not applicable. The local authority may recover in a summary manner the amount apportioned to any building in respect of its increase in value by reason of the demolition of any obstructive building, from the owner or occupier thereof, according to their respective interests in such increase of value (*z*).

Prosecution of offences.—Offences punishable on summary conviction may be prosecuted and fines recovered before the sheriff or two justices, or in burghs before the magistrates, in manner provided by the Summary Jurisdiction (Scotland) Acts, and all necessary jurisdiction is conferred on such judicial officers (*a*).

Public Health Acts.—The expression "Public Health Acts" means the Public Health (Scotland) Act, 1897, and any amending Acts.

References to the Public Health Act, 1875, are, unless the context otherwise requires, construed as references to the Public Health (Scotland) Act, 1897.

A reference to an order under s. 83 of the latter statute is substituted for a reference to a provisional order under s. 279 of the Public Health Act, 1875.

A reference to s. 72 of the Public Health (Scotland) Act, 1897, is to be substituted for a reference to s. 90 of the Public Health Act, 1875 (*b*).

Purchase of lands.—The reference in s. 57 of the Act of 1890 (*c*) to sections of the Public Health Act, 1875, is to be construed as a reference to the corresponding sections

(*x*) See p. 63, *ante*.
(*y*) (1890) s. 96 (16).
(*z*) (1890) s. 94 (3) (*c*). See p. 53, *ante*.
(*a*) (1890) s. 95 (4). See p. 105, *ante*.
(*b*) (1909) s. 53 (3). See also next paragraph.
(*c*) Relating to the acquisition of land. See p. 73, *ante*.

of the Public Health (Scotland) Act, 1897 (*d*). But for the purposes of Part III. the procedure under s. 2 of the Act of 1909 (*e*) for the compulsory purchase of land is to be substituted for the procedure for the compulsory purchase of land under s. 145 of the Public Health (Scotland) Act, 1897 (*f*).

"Quitrents and other charges incident to tenure," etc.—A reference to quitrents and other charges incident to tenure, and to tithe commutation rentcharge is to be read as applicable to feu duties, casualties, and teinds (*g*).

Rule of a superior court.—Where any order, certificate, or other act may be made a rule of a superior court (*h*), the Court of Session may, on the application of the Lord Advocate, on behalf of the confirming authority, or on the application of any person interested, interpose their authority to any such order, certificate, or act, and grant decree conform thereto upon which execution and diligence may proceed in common form (*i*).

"Special expenses."—References to special expenses (*k*) are not applicable (*l*).

"Superior court."—This means the Court of Session (*m*).

Superior of lands and heritages and his rights under Part II.—The superior of any lands and heritages may give notice of his right of superiority to the local authority, and thereupon the local authority must give to such superior notice of any proceedings taken by them in pursuance of Part II. in relation to such lands and heritages (*n*).

Where it appears to the sheriff, on the application of such superior, that default is being made in the execution of any works required to be executed on such lands and

(*d*) (1909) s. 53 (4). (*e*) See p. 74, *ante*.
(*f*) (1909) s. 53 (4). See note (*t*), p. 74, *ante*, as to the application of the First Schedule of the Act of 1909. For the Schedule, see p. 178, *post*.
(*g*) (1890) s. 96 (13). (*h*) See pp. 16, 23, and 24, *ante*.
(*i*) (1890) s. 95 (2). (*k*) See pp. 66 and 83, *ante*.
(*l*) (1909) s. 53 (16). (*m*) (1890) s. 95 (2).
(*n*) (1890) s. 97 (1). Compare the corresponding provision in England, p. 34, *ante*.

heritages in respect of which a closing order has been made, or in the demolition of a building on such lands and heritages, or in claiming to retain any site, in pursuance of Part II., and that the interests of the applicant will be prejudiced by such default, and that it is just to make the order, the sheriff may make an order empowering the applicant forthwith to enter on the lands and heritages, and within the time fixed by the order to execute the said works, or to demolish the building, or to claim to retain the site, as the case may be (*o*). The sheriff may by order enlarge the time allowed for making a claim to retain the site of a building, but not the time allowed under any order for the execution of any works or the demolition of any building (*p*).

Notice of the application to the sheriff must be given to the local authority (*q*).

"Urban sanitary authority"—"rural sanitary authority"—"rural district council."—These terms mean respectively the local authority, for the purposes of the Public Health (Scotland) Act, 1897, of a burgh and of a district not being a burgh, and the expressions "urban district" and "rural district" are to be construed accordingly (*r*).

SECTION 2.—LAND ACQUIRED FOR PURPOSES OF ARTIZANS AND LABOURERS DWELLINGS IMPROVEMENT (SCOTLAND) ACTS, 1875 TO 1880.

Re-vesting of such lands—Land acquired for the purposes of the above Acts are declared to be held and vested in the local authorities for the purposes of Part I. and relative provisions of the principal Act of 1890, without the necessity of expeding or recording any notarial or other instrument (*s*).

(*o*) (1890) s. 97 (2). See in England, pp. 41, 45, and 53, *ante*.
(*p*) (1890) s. 97 (3), as amended by (1909) s. 75, and Sched. VI.
(*q*) (1890) s. 97 (4).
(*r*) (1909) s. 53 (7).
(*s*) Housing of the Working Classes (Scotland) Act, 1896, s. 2.

PART II.

TOWN PLANNING.

Local authorities.—The local authorities having power to submit town-planning schemes are in the administrative county of London, the London County Council (*a*); in boroughs the borough councils; in urban districts the urban district councils; and in rural districts the rural district councils (*b*).

Description and object of Town Planning Schemes.—Where any land is in course of development or appears likely to be used for building purposes, it is now competent to a local authority to submit a scheme as respects such land with the general object of securing proper sanitary conditions, amenity, and convenience in connection with the laying out and use of the land, and of any neighbouring lands (*c*). This is called a Town Planning Scheme, which, in order to be effective, requires the sanction of the Local Government Board.

Land likely to be used for building purposes includes any land likely to be used as, or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not. The decision of the Local Government Board, whether land is likely to be used for building purposes or not, is final (*d*).

(*a*) (1909) s. 66 (1).
(*b*) (1909) s. 65 (1). See as to Scotland, p. 139, *post*.
(*c*) (1909) s. 54 (1). In some cases the scheme may be extended to land already built upon or land not likely to be used for building purposes, as to which, see p. 127, *post*. As to the exclusion from this power of neighbouring lands which are in the county of London, see p. 131, *post*.
(*d*) (1909) s. 54 (7).

Preparation of the scheme.—If the authority satisfy the Board that there is a *primâ facie* case for making a scheme with reference to any land within or in the neighbourhood (*e*) of their area, the Board may authorise the local authority to propose a scheme, or may authorise them to adopt, with or without modifications, any such scheme proposed by all or any of the owners of any land with respect to which the local authority might themselves have been authorised to propose a scheme (*f*); and the scheme may also be extended to a piece of land already built upon, or to a piece of land not likely to be used for building purposes, which is so situated with respect to any land likely to be used for building purposes that, in the opinion of the Local Government Board, it ought to be included in the scheme; and the Board may also authorise the inclusion in the scheme of provisions for the demolition or alteration of any buildings thereon so far as may be necessary to carry the scheme into effect (*g*).

Approval of scheme.—The scheme has no effect unless it is approved by the Local Government Board, and that approval may be refused except with such modifications and subject to such conditions as the Board may impose (*h*).

The effect of approval is the same as if the scheme were enacted in the Act (*i*).

Conditions precedent to approval.—The Board must give notice of their intention to approve the scheme. This notice is to be published in the *London* or *Edinburgh Gazette*, as the case may be.

If within twenty-one days of such publication any person or authority interested objects in the manner to be prescribed (*k*), the draft of the Board's order is to be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament.

If during this period either House presents an address to His Majesty against the draft, or any part of it, no further

(*e*) As to the exclusion of land within the county of London, see p. 131, *post*.
(*f*) (1909) s. 54 (2).
(*g*) (1909) s. 54 (3).
(*h*) (1909) s. 54 (4).
(*i*) (1909) s. 54 (5).
(*k*) See p. 132, *post*.

proceedings can be taken on it. But this does not prevent a new draft scheme being made (*l*).

Variation or revocation of scheme.—A scheme may be varied or revoked by a subsequent scheme prepared or adopted and approved in the same way as the original scheme. Moreover, the Board may, on the application of the responsible authority (*m*), or of any other person appearing to them to be interested, revoke by order a scheme if they think that under special circumstances it should be revoked (*n*).

Contents of schemes, and regulations therefor.—A scheme will contain general and special provisions.

General provisions.—The Board may prescribe a set of general provisions, or separate sets of general provisions adapted for areas of any special character, for carrying out the general objects of town-planning schemes, and in particular for dealing with the following matters:—

(1) Streets, roads, and other ways, and stopping up, or diversion of existing highways;

(2) Buildings, structures, and erections;

(3) Open spaces, private and public;

(4) The preservation of objects of historical interest or natural beauty;

(5) Sewerage, drainage, and sewage disposal;

(6) Lighting;

(7) Water supply;

(8) Ancillary or consequential works;

(9) Extinction or variation of private rights of way and other easements;

(10) Dealing with or disposal of land acquired by the responsible authority or by a local authority;

(11) Power of entry and inspection;

(12) Power of the responsible authority to remove, alter, or demolish any obstructive work;

(13) Power of the responsible authority to make

(*l*) (1909) s. 54 (4).
(*m*) See p. 130, *post*, for meaning of "responsible authority."
(*n*) (1909) s. 54 (6).

agreements with owners, and of owners to make agreements with one another;

(14) Power of the responsible authority, or a local authority, to accept any money or property for the furtherance of the object of any town-planning scheme, and provision for regulating the administration of any such money or property, and for the exemption of any assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888;

(15) Application with the necessary modifications and adaptations of statutory enactments;

(16) Carrying out and supplementing the provisions of this Act for enforcing schemes;

(17) Limitation of time for operation of scheme;

(18) Co-operation of the responsible authority with the owners of land included in the scheme, or other persons interested, by means of conferences, etc.;

(19) Charging on the inheritance of any land, the value of which is increased by the operation of a town-planning scheme, the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of lands (*o*).

The general provisions, or set of such appropriate to the particular area, are to take effect as part of every scheme, except so far as provision is made by the scheme as approved by the Board for the variation or exclusion of any of those provisions (*p*).

All such general provisions prescribed by the Board are to be laid as soon as may be before Parliament; and the Rules Publication Act, 1893, applies to them as if they were statutory rules (*q*).

Special provisions.—Besides the general provisions, each scheme is to contain special provisions for the following purposes:

(1) For defining as prescribed by regulations (*r*) the area to which the scheme is to apply;

(*o*) (1909) s. 55 (1), and Sched. IV.
(*p*) (1909) s. 55 (1).
(*q*) (1909) s. 64.
(*r*) See p. 131, *post*.

(2) For defining in like manner the authority who are to be responsible for enforcing the observance, and for the execution of any works which under the scheme or the Act are to be executed by a local authority;

(3) For providing for any matters which may be dealt with by general provisions;

(4) For otherwise supplementing, excluding, or varying the general provisions;

(5) For dealing with any special circumstances or contingencies for which adequate provision is not made by the general provisions; and

(6) For suspending, so far as necessary for the proper carrying out of the scheme, any statutory enactments, bye-laws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme; but if the scheme suspends any enactment contained in a public general Act the scheme does not come into force unless a draft of it has been laid before each House of Parliament for a period of not less than forty days during the session of Parliament, and if either of those Houses, before the expiration of that time, presents an address to His Majesty against the proposed suspension, no further proceedings can be taken on the draft, without prejudice to the making of a new scheme (*s*).

Restrictions on the lands affected by schemes.—The restrictions which are imposed upon the acquisition or appropriation of lands in any scheme or order under the Housing Acts apply equally to a town-planning scheme. These restrictions have been fully stated elsewhere (*t*).

"The responsible authority."—The term "the responsible authority" is used in the Act to denote the authority who by the scheme are to be responsible for enforcing the observance, or for the execution of any works which under the scheme or the Act are to be executed by a local authority (*u*).

(*s*) (1909) s. 55 (2).
(*t*) (1909) ss. 73 and 74, and see p. 96, *ante*, and p. 137, *post*.
(*u*) (1909) s. 55 (2).

Scheme affecting more than one authority.—It has already been stated (*x*) that the land included in a scheme propounded by a local authority may be land within their area, or land in the neighbourhood of their area, but within the area of another authority.

In such a case the responsible authority may be, as the Board directs, one of the following, namely:

One of those local authorities; or

For certain purposes of the scheme one local authority, and for certain purposes another local authority; or

A joint body constituted specially for the purpose of the scheme, in which case all necessary provisions may be made by the scheme for constituting the joint body and giving them the necessary powers and duties (*y*).

Exception as to land in London.—To the above an exception is made in the case of London. Except with the consent of the London County Council, no other local authority may prepare, or be the responsible authority for, a scheme which affects land in the county of London (*z*).

Procedure previous to approval of scheme.—The Local Government Board may make regulations for regulating generally the procedure to be adopted with respect to applications for authority to prepare or adopt a scheme; the preparation of the scheme; obtaining the approval of the Board to the scheme; and any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or approval of the scheme or preliminary thereto (*a*).

These regulations will contain provisions (*b*):

(1) For the submission of plans and estimates (*c*);

(2) For the publication of notices (*d*);

(3) For securing that notice of the proposal to prepare or

(*x*) p. 127, *ante*, and see also s. 55 (3).
(*y*) (1909) s. 55 (3).
(*z*) (1909) s. 55 (3).
(*a*) (1909) s. 56 (1).
(*b*) (1909) s. 56 (1) and (2), and Sched. V.
(*c*) (1909) Sched. V. (1) (*a*).
(*d*) (1909) Sched. V. (1) (*b*).

adopt the scheme shall be given at the earliest stage possible to any council interested in the land (*e*);

(4) For submission to the Board of the proposed scheme, with plans and estimates (*f*);

(5) For notice of submission of proposed scheme to the Board (*g*);

(6) For hearing of objections and representations by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme (*h*);

(7) For publication of notice of intention to approve the scheme and the lodging of objections to it (*i*);

(8) For securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings, by means of conferences and such other means as may be provided by the regulations (*k*);

(9) For defining the duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme (*l*); and

(10) For providing for the details to be specified in plans, including, wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings (*m*).

Procedure subsequent to approval of scheme.—The Local Government Board may make regulations for regulating generally the procedure to be adopted with respect to any inquiries, reports, notices, or other matters required in relation to the carrying out of the scheme or enforcing the observance of its provisions (*n*).

These regulations will also deal with (*o*):

(*e*) (1909) s. 56 (2) (*b*). (*f*) (1909) Sched. V. (2) (*a*).
(*g*) (1909) Sched. V. (2) (*b*). (*h*) (1909) Sched. V. (2) (*c*).
(*i*) (1909) Sched. V. (2) (*d*). (*k*) (1909) s. 56 (2) (*a*).
(*l*) (1909) Sched. V. (4). (*m*) (1909) Sched V. (5).
(*n*) (1909) s. 56 (1). (*o*) (1909) s. 56 (1) and (2), and Sched. V.

(1) Notice to be given of approval of scheme (*p*);

(2) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme (*q*);

(3) The duty, at any stage, of the local authority to publish or deposit for inspection any scheme, and the plans relating thereto, and to give information to persons affected with reference to such scheme (*r*); and

(4) The details to be specified in plans, including, wherever the circumstances so require, the restrictions in the number of buildings which may be erected on each acre, and the height and character of those buildings (*s*).

Enforcement and execution of approved scheme.—After giving such notice as may be required by the scheme, the responsible authority (*t*) have power:

(1) To remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with; or

(2) To execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme (*u*).

The expenses so incurred may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the scheme (*x*).

Disputes.—Disputes as to whether a building or work contravenes a scheme, or whether any provision of a scheme is not complied with in the erection or carrying out of any such building or work, are to be referred to the Local Government Board, and will, unless the parties otherwise agree, be determined by the Board as abitrators. Their decision thereon is final and conclusive and binding on all persons (*y*).

(*p*) (1909) Sched V. (3) (*a*).
(*q*) (1909) Sched. V. (3) (*b*).
(*r*) (1909) Sched. V. (4).
(*s*) (1909) Sched. V. (5).
(*t*) See p. 130, *ante*.
(*u*) (1909) s. 57 (1).
(*x*) (1909) s. 57 (2).
(*y*) (1909) s. 57 (3).

Compensation by authority for property injuriously affected.—A person whose property is injuriously affected by the operation of a scheme is entitled to compensation in respect thereof from the responsible authority (*z*), but only subject to certain stringent conditions and limitations, namely:

(1) The claim for compensation must be made within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published as prescribed by regulations of the Local Government Board (*a*).

(2) No compensation can be claimed on account of any building erected on, or contract made, or other thing done with respect to land included in a scheme, after the time at which the application for authority to prepare the scheme was made, or after such other time as the Local Government Board may fix for the purpose; but the provision does not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun, or of carrying out a contract entered into, before the application was made (*b*).

(3) No compensation is payable if and so far as the provisions of the scheme are such as would have been enforceable if they had been contained in byelaws made by the local authority (*c*).

(4) If a person is entitled to compensation in respect of any matter or thing under these provisions, and also would be entitled to compensation in respect of the same under any other enactment, he cannot have compensation under both, and he is not to be entitled to any greater compensation under this Act than he would be entitled to under the other enactment (*d*).

(5) Lastly, property is not to be deemed to be injuriously affected by reason of the making of any provisions inserted in a scheme, which, with a view to securing the amenity of the area included in the scheme, or any part thereof, prescribe the space about buildings, or limit the number

(*z*) See as to the meaning of "responsible authority," p. 130, *ante*.
(*a*) (1909) s. 58 (1). (*b*) (1909) s. 58 (2).
(*c*) (1909) s. 59 (1). (*d*) (1909) s. 59 (3).

of buildings to be erected, or prescribe the height or character of buildings, and which the Local Government Board, having regard to the nature and situation of the land affected by the provisions, consider reasonable for the purpose (*e*).

Assessment and recovery of compensation.—Any questions as to whether any property is injuriously affected in value within the above provisions, and as to the amount and manner of payment, whether by instalments or otherwise, of the sum to be paid as compensation, are to be determined by the arbitration of a single arbitrator appointed by the Board, unless the parties agree on some other method of determination (*f*).

The amount of compensation so determined may be recovered summarily as a civil debt (*g*).

Compensation on revocation of scheme.—If a scheme be revoked by an order of the Local Government Board, any person who has incurred expenditure for the purpose of complying with the scheme is entitled to compensation in so far as any such expenditure is rendered abortive by reason of such revocation (*h*).

Compensation to authority for betterment.—The effect of a scheme may be to increase in value some property. In such a case the responsible authority are entitled to recover from any person whose property is so increased in value one-half of the amount of that increase; provided that they make their claim within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Local Government Board (*i*).

Assessment and recovery of such compensation.—All questions as to whether any property is so increased in value, and as to the amount and manner of payment (whether by instalments or otherwise) of the compensation to which the responsible authority are entitled, are to be determined by

(*e*) (1909) s. 59 (2). (*f*) (1909) s. 58 (4).
(*g*) (1909) s. 58 (5). (*h*) (1909) s. 58 (6).
(*i*) (1909) s. 58 (3).

the arbitration of a single arbitrator appointed by the Board, unless the parties agree on some other method of determination (*k*).

Such compensation is recoverable summarily as a civil debt (*l*).

Defaulting authorities.—*Failure to make or adopt scheme.*—When the Local Government Board are satisfied on any representation, after holding a public local inquiry (*m*), that a local authority

(1) Have failed to take the requisite steps for having a satisfactory town planning scheme prepared and approved where this ought to be done;

(2) Have failed to adopt any scheme proposed by owners of any land where such adoption ought to be made;

(3) Have unreasonably refused to consent to any modifications or conditions imposed by the Board,

the Board may make an order on the local authority accordingly; or in the case of (2) the Board, as an alternative, may approve the proposed scheme, subject to any necessary modifications or conditions, and thereupon the scheme will have effect as if it had been adopted by the local authority and approved by the Board (*n*).

The order may be enforced by mandamus (*o*).

Failure to execute scheme.—Representation may be made to the Local Government Board that the responsible authority have failed either to enforce effectively the observance of a scheme which has been confirmed, or any provisions of it, or to execute any works which under the scheme or the statute are required to be executed.

The Board may then hold a local inquiry (*p*), and if satisfied of the default may make such order as may be necessary (*q*).

The order is enforceable by mandamus (*r*).

(*k*) (1909) s. 58 (4).
(*l*) (1909) s. 58 (5).
(*m*) Section 85 of the Act of 1890, as amended by the Act of 1909, applies ((1909) s. 63). See p. 92, *ante*.
(*n*) (1909) s. 61 (1).
(*o*) (1909) s. 61 (3).
(*p*) See note (*m*), *supra*.
(*q*) (1909) s. 61 (2).
(*r*) *Ibid.*, s. 61 (3).

Power to acquire land comprised in the scheme.—The responsible authority (*s*) may for the purpose of the scheme purchase any land comprised in it.

The purchase may be effected by agreement, or the authority may be authorised to purchase compulsorily in the same manner and subject to the same provisions (*t*) as a local authority may purchase or be authorised to purchase land situate in an urban district (*u*) for the purposes of Part III. of the Housing of the Working Classes Act, 1890, as amended by the Act of 1909 (*x*).

Where the land comprised in the scheme is within the area of a local authority but they are not the responsible authority under the scheme, the local authority may purchase or be authorised to purchase that land in the same way as the responsible authority (*y*).

Restrictions on power of acquisition.—The following restrictions which are imposed upon the power of acquiring land under the Housing Acts apply equally to the exercise of the powers under town-planning schemes, namely, the restrictions in favour of:

Ancient monuments and objects of archæological interest (*z*);

Land which is the property of a local authority (*a*);

Land acquired for public undertakings (*b*);

Land being a park, garden, etc., or acquired for the amenity of dwelling-houses (*c*);

Land forming part of a common, open space, or allotment (*d*);

(*s*) See p. 130, *ante*.

(*t*) Including any provision authorising the Board to give directions as to the payment and application of any purchase money or compensation ((1909) s. 60 (1)). See p. 73, *ante*, as to these provisions.

(*u*) See p. 75, *ante*.

(*x*) (1909) s. 60 (1). The amending sections referred to are ss. 2 and 45, as to which, see respectively pp. 74 and 96, *ante*.

(*y*) (1909) s. 60 (2).

(*z*) (1909) s. 60 (1), applying s. 45. See p. 96, *ante*.

(*a*) *Ibid.*, and see p. 96, *ante*.

(*b*) *Ibid.*, and see *ibid.*

(*c*) *Ibid.*, and see *ibid.*

(*d*) (1909) s. 73, and see *ibid.*

Land in the neighbourhood of royal palaces or parks (*e*).

Determination of matters by the Local Government Board.—The determination of certain disputed matters are expressly provided for, namely, questions affecting buildings in contravention of, or non-compliance with, a scheme (*f*); and questions relating to compensation for property injuriously affected and betterment (*g*).

In all other cases of dispute where the Board are authorised by the Act or by any scheme to determine any matter it is at their option to determine it as arbitrators or otherwise (*h*).

If they elect or are required to determine it as arbitrators, the provisions of the Regulation of Railways Act, 1868, respecting arbitrations by the Board of Trade, and amending Acts, are to apply as if enacted in the statute of 1909 and made applicable to the Local Government Board (*i*). That is to say, the Local Government Board may appoint an arbitrator to act for them and fill his place in case of incapacity or death (*k*); may fix his remuneration (*l*); and the conduct of arbitrations and the awards, costs, etc., thereof must be regulated by ss. 18–29 of the Railway Companies Arbitration Act, 1859 (*m*).

Inquiries by Local Government Board.—Local inquiries of the Board for the purposes of, or in connection with, town planning are regulated by s. 85 of the Housing of the Working Classes Act, 1890 (*n*).

Finances.—*Outside London.*—The expenses incurred by a borough, or urban or rural district, council in England under this part of the Act of 1909, or any scheme thereunder, are to be defrayed as expenses under the Public Health Act (*a*),

(*e*) (1909) s. 74, and see p. 97, *ante*.
(*f*) (1909) s. 57 (3). See p. 133, *ante*.
(*g*) (1909) s. 58 (4). See p. 135, *ante*.
(*h*) (1909) s. 62.
(*i*) *Ibid.*
(*k*) See Regulation of Railways Act, 1868, s. 30.
(*l*) *Ibid.*, s. 31.
(*m*) *Ibid.*, s. 32.
(*n*) (1909) s. 63. For s. 85 of the Act of 1890, see p. 92, *ante*.
(*a*) (1909) s. 65 (2).

and the authority may for such purposes borrow in the same manner and subject to the same provisions as for the purposes of those Acts; and the money so borrowed is not to be reckoned as part of the debt of a borough or urban district for the purpose of the limitation under the Public Health Act, 1875, s. 234 (2) and (3) (*b*).

London.—In London, expenses incurred by the county council are to be defrayed out of the general county rate, and money may be borrowed in the same manner as if borrowed for general county purposes (*c*).

As to Scotland, see later (*d*).

Modifications in the application to Scotland.—The provisions of the Act of 1909 relating to town planning apply to Scotland subject to certain modifications (*e*).

Borrowing powers.—The local authority may borrow for the purpose of town planning schemes in the same manner and subject to the same provisions as they may borrow for the purposes of the Housing Acts (*f*).

Any local rate for the purpose of town planning (including the purposes of any loan) is not to be reckoned in any calculation as to the statutory limit of the public health general assessment (*g*).

Defaulting authority.—The Local Government Board for Scotland may not themselves make an order against a defaulting authority under s. 61 of the Act of 1909 (*h*), but in lieu thereof they may, after holding a local inquiry at which the authority shall have had an opportunity of being heard, and with the approval of the Lord Advocate, apply for such an order by summary petition to either Division of the Court of Session, or during vacation or recess

(*b*) (1909) s. 65 (3).
(*c*) (1909) s. 66 (2).
(*d*) *Infra.*
(*e*) (1909) s. 67.
(*f*) (1909) s. 65 (2), as modified by the provision that references to the Public Health Acts are to be construed as references to the Housing Acts as defined in Part I. of the Act of 1909 ((1909), s. 67 (4), and p. 140, *post*). As to such power of borrowing, see p. 118, *ante*.
(*g*) (1909) s. 67 (5), substituted for s. 65 (3), which is not applicable ((1909) s. 67 (2)).
(*h*) See p. 136, *ante*.

to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as they think just (*i*).

Expenses.—Any expenses incurred under the Act of 1909 relating to town planning, or under any such scheme, are defrayable as expenses of the authority under the Housing Acts (*k*).

"*Local authority.*"—The definition of "local authority" given in s. 65 (1) of the Act of 1909 does not apply (*l*). The local authority and the area of such authority are respectively to be the local authority for the purposes of the Housing Acts as defined in the First Part of the Act of 1909 (*m*), and the district of that authority (*n*).

Local Government Board.—For this, read Local Government Board for Scotland (*o*). In any proceedings under the part of the Act relating to town planning the Board must have regard to the powers and jurisdiction of the dean of guild court in burghs (*p*).

Local inquiry.—The Local Government Board for Scotland, for the purposes of the provisions relating to town planning, have the same powers of local inquiry as for the purposes of the Housing Acts as defined in the First Part of the Act of 1909 (*q*).

Public Health Acts.—References to these are to be construed as references to the Housing Acts as defined in the First Part of the Act of 1909 (*r*).

Rules Publication Act, 1893.—The provision in s. 64 of the Act of 1909, relating to the laying before Parliament

(*i*) (1909) s. 67 (6).
(*k*) (1909) s. 65 (2), as modified by s. 67 (4), which substitutes a reference to the Housing Acts for a reference to the Public Health Acts.
(*l*) (1909) s. 67 (2).
(*m*) See p. 121, *ante*.
(*n*) (1909) s. 67 (3).
(*o*) (1909) s. 67 (1).
(*p*) (1909) s. 67 (7).
(*q*) (1909) s. 67 (1). See p. 121, *ante*, as to these powers.
(*r*) (1909) s. 67 (4). The Housing Acts are there defined to be the principal Act of 1890, and any amending Acts, including the Act of 1909, ((1909) s. 51).

of the general provisions made under the Act by the Local Government Board applies to Scotland, and the provision in such section respecting the Rules Publication Act, 1893, has effect as if s. 1 of that Act applied to Scotland, with the substitution of *Edinburgh Gazette* for the *London Gazette* (*s*).

(*s*) (1909) s. 67 (8).

APPENDICES.

APPENDIX A.

HOUSING, TOWN PLANNING, ETC., ACT, 1909.

[9 EDW. 7, c. 44.]

An Act to amend the Law relating to the Housing of the Working Classes, to provide for the making of Town Planning Schemes, and to make further provision with respect to the appointment and duties of County Medical Officers of Health, and to provide for the establishment of Public Health and Housing Committees of County Councils. [3rd December 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.

HOUSING OF THE WORKING CLASSES.

Facilities for Acquisition of Lands and other Purposes of the Housing Acts.

1. Part III. of the principal Act to take effect without adoption.—Part III. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70) (in this Part of this Act referred to as the principal Act), shall, after the commencement of this Act, extend to and take effect in every urban or rural district, or other place for which it has not been adopted, as if it had been so adopted.

2. Provisions as to acquisition of land under Part III. of the principal Act.—(1) A local authority may be authorised to purchase land compulsorily for the purposes of Part III. of the principal Act, by means of an order submitted to the Local Government Board and confirmed by the Board in accordance with the First Schedule to this Act.

(2) The procedure under this section for the compulsory purchase of land shall be substituted for the procedure for the same purpose under section one hundred and seventy-six of the Public Health Act, 1875 (38 & 39 Vict. c. 55), as applied by subsection (1) of section fifty-seven of the principal Act.

(3) A local authority may, with the consent of and subject to any conditions imposed by the Local Government Board, acquire land by agreement for the purposes of Part III. of the principal Act, notwithstanding that the land is not immediately required for those purposes.

3. **Loans by Public Works Loan Commissioners to local authorities.**—Where a loan is made by the Public Works Loan Commissioners to a local authority for any purposes of the Housing Acts—

(*a*) The loan shall be made at the minimum rate allowed for the time being for loans out of the Local Loans Fund ; and

(*b*) If the Local Government Board make a recommendation to that effect, the period for which the loan is made by the Public Works Loan Commissioners may exceed the period allowed under the principal Act or under any other Act limiting the period for which the loan may be made, but the period shall not exceed the period recommended by the Local Government Board, nor in any case eighty years ; and

(*c*) As between loans for different periods, the longer duration of the loan shall not be taken as a reason for fixing a higher rate of interest.

4. **Loans by Public Works Loan Commissioners to public utility societies.**—(1) Where a loan is made by the Public Works Loan Commissioners under section sixty-seven, subsection (2) (*d*), of the principal Act, to a public utility society, the words "two thirds" shall be substituted for the words "one moiety."

(2) For the purposes of this section a public utility society means a society registered under the Industrial and Provident Societies Act, 1893 (56 & 57 Vict. c. 39), or any amendment thereof, the rules whereof prohibit the payment of any interest or dividend at a rate exceeding five pounds per centum per annum.

5. **Payment of purchase or compensation money (which would otherwise be paid into court) on direction of Local Government Board.**—(1) Any purchase money or compensation payable in pursuance of the Housing Acts by a local authority in respect of any lands, estate, or interest of another local authority which would, but for this section, be paid into court in manner provided by the Lands Clauses Acts or by paragraph (20) of the Second Schedule to the principal Act may, if the Local Government Board consent, instead of being paid into court, be paid and applied as the Board determine.

(2) Any such decision of the Board as to the payment and application of any such purchase money or compensation shall be final and conclusive.

6. Provision of public streets in connexion with exercise of powers under Part III. of the principal Act.—Any local authority in connexion with the exercise by them of their powers under Part III. of the principal Act may lay out and construct public streets or roads on any land acquired or appropriated by them for the purpose of that Part of that Act, or contribute towards the cost of the laying out and construction of any streets or roads on any such land by other persons on the condition that those streets or roads are to be dedicated to the public.

7. Expenditure of money for housing purposes in case of settled land.—(1) The following paragraph shall be substituted for paragraph (*b*) of subsection (1) of section seventy-four of the principal Act :—

(*b*) The improvements on which capital money arising under the Settled Land Act, 1882 (45 & 46 Vict. c. 38), may be expended, enumerated in section twenty-five of the said Act and referred to in section thirty of the said Act, shall, in addition to cottages for labourers, farm servants, and artisans, whether employed on the settled land or not, include the provision of dwellings available for the working classes, either by means of building new buildings or by means of the reconstruction, enlargement, or improvement of existing buildings, so as to make them available for the purpose, if that provision of dwellings is, in the opinion of the court, not injurious to the estate or is agreed to by the tenant for life and the trustees of the settlement.

(2) The provision by a tenant for life, at his own expense, of dwellings available for the working classes on any settled land shall not be deemed to be an injury to any interest in reversion or remainder in that land ; provided that the powers conferred upon a tenant for life by this subsection shall not be exercised by him without the previous approval in writing of the trustees of the settlement.

8. Donations for housing purposes.—A local authority may accept a donation of land or money or other property for any of the purposes of the Housing Acts, and it shall not be necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888 (51 & 52 Vict. c. 42).

9. Provisions with respect to money applicable under trusts for housing purposes.—(1) If in any case it appears to the Local Government Board that the institution of legal proceedings is requisite or desirable with respect to any property required to be applied under any trusts for the provision of dwellings available for the working classes, or that the expediting of any such legal proceedings is requisite or desirable, the Board may certify the case to the Attorney-General, and the Attorney-General, if he thinks fit,

shall institute any legal proceedings or intervene in any legal proceedings already instituted in such manner as he thinks proper under the circumstances.

(2) Before preparing any scheme with reference to property required to be applied under any trusts for the provision of dwellings available for the working classes, the court or body who are responsible for making the scheme shall communicate with the Local Government Board and receive and consider any recommendations made by the Board with reference to the proposed scheme.

Powers of enforcing Execution of Housing Acts.

10. Power of Local Government Board on complaint to enforce exercise of powers.—(1) Where a complaint is made to the Local Government Board—

(*a*) as respects any rural district by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any four inhabitant householders of the district; or

(*b*) as respects any county district, not being a rural district, by the council of the county in which the district is situated, or by four inhabitant householders of the district; or

(*c*) as respects the area of any other local authority by four inhabitant householders of the area;

that the local authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held, and if, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, the Board may declare the authority to be in default, and may make an order directing that authority, within a time limited by the order, to carry out such works and do such other things as may be mentioned in the order for the purpose of remedying the default.

(2) Before deciding that a local authority have failed to exercise their powers under Part III. of the principal Act, the Board shall take into consideration the necessity for further accommodation for the housing of the working classes in such district, the probability that the required accommodation will not be otherwise provided, and the other circumstances of the case, and whether, having regard to the liability which will be incurred by the rates, it is prudent for the local authority to undertake the provision of such accommodation.

(3) Where an order originally made under this section on the council of a county district is not complied with by that council, the Local Government Board may, if they think fit, with the consent of the county council, instead of enforcing that order against the council of the county district, make an order directing the county council to carry out any works or do any other things which are

mentioned in the original order for the purpose of remedying the default of the district council.

(4) Where the Board make an order under this section directing a county council to carry out any works or do any other thing, the order may, for the purpose of enabling the county council to give effect to the order, apply any of the provisions of the Housing Acts or of section sixty-three of the Local Government Act, 1894 (56 & 57 Vict. c 73), with such modifications or adaptations (if any) as appear necessary or expedient.

(5) An order made by the Local Government Board under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(6) Any order made by the Local Government Board under this section may be enforced by mandamus.

11. Power of Local Government Board to order schemes, etc., to be carried out within a limited time.—(1) Where it appears to the Local Government Board that a local authority have failed to perform their duty under the Housing Acts of carrying out an improvement scheme under Part I. of the principal Act, or have failed to give effect to any order as respects an obstructive building, or to a reconstruction scheme, under Part II. of that Act, or have failed to cause to be made the inspection of their district required by this Act, the Board may make an order requiring the local authority to remedy the default and to carry out any works or do any other things which are necessary for the purpose under the Housing Acts within a time fixed by the order.

(2) Any order made by the Local Government Board under this section may be enforced by mandamus.

12. Powers of county council to act in default of rural district council under Part III. of the Principal Act.—Where a complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any four inhabitant householders of that district, the county council may cause a public local inquiry to be held, and if, after holding such an inquiry, the county council are satisfied that the rural district council have failed to exercise their powers under Part III. of the principal Act in cases where those powers ought to have been exercised, the county council may resolve that the powers of the district council for the purposes of that Part be transferred to the county council with respect either to the whole district or to any parish in the district, and those powers shall be transferred accordingly, and, subject to the provisions of this Act, section sixty-three of the Local Government Act, 1894, shall apply as if the powers had been transferred under that Act.

13. Power of county council to exercise powers of rural district council under Part III. of the principal Act.—(1) Where the council of a county are of opinion that for any reason it

is expedient that the council should exercise, as respects any rural district in the county, any of the powers of a local authority under Part III. of the principal Act, the council, after giving notice to the council of the district of their intention to do so, may apply to the Local Government Board for an order conferring such powers on them.

(2) Upon such an application being made, the Board may make an order conferring on the county council as respects the rural district all or any of the powers of a local authority under Part III. of the principal Act, and thereupon the provisions of the Housing Acts relating to those powers (including those enabling the Public Works Loan Commissioners to lend, and fixing the terms for which money may be lent and borrowed) shall apply as if the council were a local authority under Part III. of the principal Act: Provided that the expenses incurred by the county council under any such order shall be defrayed as expenses for general county purposes.

(3) Where, under any such order, the county council have executed any works in a rural district they may transfer the works to the council of that district on such terms and subject to such conditions as may be agreed between them.

Contracts by Landlord.

14. Extension of section 75 of the principal Act.—In any contract made after the passing of this Act for letting for habitation a house or part of a house at a rent not exceeding—

(*a*) in the case of a house situate in the administrative county of London, forty pounds;

(*b*) in the case of a house situate in a borough or urban district with a population according to the last census for the time being of fifty thousand or upwards, twenty-six pounds;

(*c*) in the case of a house situate elsewhere, sixteen pounds;

there shall be implied a condition that the house is at the commencement of the holding in all respects reasonably fit for human habitation, but the condition aforesaid shall not be implied when a house or part of a house is let for a term of not less than three years upon the terms that it be put by the lessee into a condition reasonably fit for occupation, and the lease is not determinable at the option of either party before the expiration of that term.

15. Condition as to keeping houses let to persons of the working classes in repair.—(1) The last foregoing section shall, as respects contracts to which that section applies, take effect as if the condition implied by that section included an undertaking that the house shall, during the holding, be kept by the landlord in all respects reasonably fit for human habitation.

(2) The landlord or the local authority, or any person authorised by him or them in writing, may at reasonable times of the day, on giving twenty-four hours' notice in writing to the tenant or occupier,

enter any house, premises, or building to which this section applies for the purpose of viewing the state and condition thereof.

(3) If it appears to the local authority within the meaning of Part II. of the principal Act that the undertaking implied by virtue of this section is not complied with in the case of any house to which it applies, the authority shall, if a closing order is not made with respect to the house, by written notice require the landlord, within a reasonable time, not being less than twenty-one days, specified in the notice, to execute such works as the authority shall specify in the notice as being necessary to make the house in all respects reasonably fit for human habitation.

(4) Within twenty-one days after the receipt of such notice the landlord may by written notice to the local authority declare his intention of closing the house for human habitation, and thereupon a closing order shall be deemed to have become operative in respect of such house.

(5) If the notice given by the local authority is not complied with, and if the landlord has not given the notice mentioned in the immediately preceding subsection, the authority may, at the expiration of the time specified in the notice given by them to the landlord, do the work required to be done and recover the expenses incurred by them in so doing from the landlord as a civil debt in manner provided by the Summary Jurisdiction Acts, or, if they think fit, the authority may by order declare any such expenses to be payable by annual instalments within a period not exceeding that of the interest of the landlord in the house, nor in any case five years, with interest at a rate not exceeding five pounds per cent. per annum, until the whole amount is paid, and any such instalments or interest or any part thereof may be recovered from the landlord as a civil debt in manner provided by the Summary Jurisdiction Acts.

(6) A landlord may appeal to the Local Government Board against any notice requiring him to execute works under this section, and against any demand for the recovery of expenses from him under this section or order made with respect to those expenses under this section by the authority, by giving notice of appeal to the Board within twenty-one days after the notice is received, or the demand or order is made, as the case may be, and no proceedings shall be taken in respect of such notice requiring works, order, or demand, whilst the appeal is pending.

(7) In this section the expression "landlord" means any person who lets to a tenant for habitation the house under any contract referred to in this section, and includes his successors in title; and the expression "house" includes part of a house.

(8) Sections forty-nine and fifty of the principal Act as amended by section thirteen of the Housing of the Working Classes Act, 1903 (3 Edw. 7, c. 39) (which relate to the service of notices and the description of owner in proceedings), shall apply for the purposes of this section, with the substitution, where required, of the landlord for the owner of a dwelling-house.

(9) Any remedy given by this section for non-compliance with the undertaking implied by virtue of this section shall be in addition to and not in derogation of any other remedy available to the tenant against the landlord, either at common law or otherwise.

16. Extension of power of making byelaws with respect to lodging-houses for the working classes.—(1) The power of making and enforcing byelaws under section ninety of the Public Health Act, 1875, and section ninety-four of the Public Health (London) Act, 1891 (54 & 55 Vict. c. 76), with respect to houses or parts of houses which are let in lodgings or occupied by members of more than one family, shall, in the case of houses intended for the working classes, extend to the making and enforcing of byelaws imposing any duty (being a duty which may be imposed by the byelaws and which involves the execution of work) upon the owner within the meaning of the said Acts, in addition to or in substitution for any other person having an interest in the premises, and prescribing the circumstances and conditions in and subject to which any such duty is to be discharged.

(2) For the purpose of discharging any duty so imposed, the owner or other person may at all reasonable times enter upon any part of the premises, and section fifty-one of the principal Act shall apply as if for the reference to the provisions of Part II. of that Act there were substituted a reference to the provisions of such byelaws, and as if the person on whom such duty is imposed were the owner and any inmate of the premises were the occupier of a dwelling-house.

(3) Where an owner or other person has failed to execute any work which he has been required to execute under the byelaws, the local authority or sanitary authority, as the case may be, may, after giving to him not less than twenty-one days' notice in writing, themselves execute the works and recover the costs and expenses, and for that purpose the provisions of sub-section (5) of the last foregoing section, with respect to the execution of works and the recovery of expenses by local authorities, shall apply as if the owner or other person were the landlord, and with such other adaptations as may be necessary.

Amendment of Procedure for Closing Orders and Demolition Orders.

17. Duty of local authority as to closing of dwelling-house unfit for human habitation.—(1) It shall be the duty of every local authority within the meaning of Part II. of the principal Act to cause to be made from time to time inspection of their district, with a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and for that purpose it shall be the duty of the local authority, and of every officer of the local authority, to

comply with such regulations and to keep such records as may be prescribed by the Board.

(2) If, on the representation of the medical officer of health, or of any other officer of the authority, or other information given, any dwelling-house appears to them to be in such a state, it shall be their duty to make an order prohibiting the use of the dwelling-house for human habitation (in this Act referred to as a closing order) until in the judgment of the local authority the dwelling-house is rendered fit for that purpose.

(3) Notice of a closing order shall be forthwith served on every owner of the dwelling-house in respect of which it is made, and any owner aggrieved by the order may appeal to the Local Government Board by giving notice of appeal to the Board within fourteen days after the order is served upon him.

(4) Where a closing order has become operative, the local authority shall serve notice of the order on every occupying tenant of the dwelling-house in respect of which the order is made, and, within such period as is specified in the notice, not being less than fourteen days after the service of the notice, the order shall be obeyed by him, and he and his family shall cease to inhabit the dwelling-house, and in default he shall be liable on summary conviction to be ordered to quit the dwelling-house within such time as may be specified in the order.

(5) Unless the dwelling-house has been made unfit for habitation by the wilful act or default of the tenant or of any person for whom as between himself and the owner or landlord he is responsible, the local authority may make to every such tenant such reasonable allowance on account of his expense in removing as may be determined by the local authority with the consent of the owner of the dwelling-house, or, if the owner of the dwelling-house fails to consent to the sum determined by the local authority, as may be fixed by a court of summary jurisdiction, and the amount of the said allowance shall be recoverable by the local authority from the owner of the dwelling-house as a civil debt in manner provided by the Summary Jurisdiction Acts.

(6) The local authority shall determine any closing order made by them if they are satisfied that the dwelling-house, in respect of which the order has been made, has been rendered fit for human habitation.

If, on the application of any owner of a dwelling-house, the local authority refuse to determine a closing order, the owner may appeal to the Local Government Board by giving notice of appeal to the Board within fourteen days after the application is refused.

(7) A room habitually used as a sleeping place, the surface of the floor of which is more than three feet below the surface of the part of the street adjoining or nearest to the room, shall for the purposes of this section be deemed to be a dwelling-house so dangerous or injurious to health as to be unfit for human habitation, if the room either—

(*a*) is not on an average at least seven feet in height from floor to ceiling ; or

(*b*) does not comply with such regulations as the local authority with the consent of the Local Government Board may prescribe for securing the proper ventilation and lighting of such rooms, and the protection thereof against dampness, effluvia, or exhalation : Provided that if the local authority, after being required to do so by the Local Government Board, fail to make such regulations, or such regulations as the Board approve, the Board may themselves make them, and the regulations so made shall have effect as if they had been made by the local authority with the consent of the Board :

Provided that a closing order made in respect of a room to which this subsection applies shall not prevent the room being used for purposes other than those of a sleeping place ; and that, if the occupier of the room after notice of an order has been served upon him fails to comply with the order, an order to comply therewith may, on summary conviction, be made against him.

This subsection shall not come into operation until the first day of July nineteen hundred and ten, and a closing order made in respect of any room to which this subsection applies shall not be treated as a closing order in respect of a dwelling-house for the purposes of the next succeeding section.

18. Order for demolition.—(1) Where a closing order in respect of any dwelling-house has remained operative for a period of three months, the local authority shall take into consideration the question of the demolition of the dwelling-house, and shall give every owner of the dwelling-house notice of the time (being some time not less than one month after the service of the notice) and place at which the question will be considered, and any owner of the dwelling-house shall be entitled to be heard when the question is so taken into consideration.

(2) If upon any such consideration the local authority are of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit, or that the continuance of any building, being or being part of the dwelling-house, is a nuisance or dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses, they shall order the demolition of the building.

(3) If any owner undertakes to execute forthwith the works necessary to render the dwelling-house fit for human habitation, and the local authority consider that it can be so rendered fit for human habitation, the local authority may, if they think fit, postpone the operation of the order for such time, not exceeding six months, as they think sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

(4) Notice of an order for the demolition of a building shall be forthwith served on every owner of the building in respect of which it is made, and any owner aggrieved by the order may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after the order is served upon him.

19. Power to redeem annuities charged by charging order under section 36 of the principal Act.—Any owner of or other person interested in a dwelling-house on which an annuity has been charged by a charging order made under section thirty-six of the principal Act (which relates to the grant of charges) shall at any time be at liberty to redeem the annuity on payment to the person entitled to the annuity of such sum as may be agreed upon, or in default of agreement determined by the Local Government Board.

20. Provision as to priority of charges under section 37 of the principal Act.—The charges excepted in subsection (1) of section thirty-seven of the principal Act (which relates to the incidence of charges) shall include charges on the dwelling-house created or arising under any provision of the Public Health Acts, or under any provision in any local Act authorising a charge for recovery of expenses incurred by a local authority.

21. Restriction on power of court of summary jurisdiction to extend time.—Subsection (3) of section forty-seven of the principal Act (which gives power to a court of summary jurisdiction to enlarge the time for certain matters) shall cease to have effect as respects the time allowed for the execution of any works or the demolition of a building under a closing order or under an order for the demolition of a building.

Amendments with respect to Improvement and Reconstruction Schemes.

22. Amendment of section 4 of the principal Act as to official representation.—In section four of the principal Act (which relates to an official representation), the words "that the "most satisfactory method of dealing with the evils connected with "such houses, courts, or alleys, and the sanitary defects in such area "is an improvement scheme" shall be substituted for the words "that "the evils connected with such houses, courts, or alleys, and the "sanitary defects in such area cannot be effectually remedied other-"wise than by means of an improvement scheme."

23. Amendment of the principal Act as to contents of schemes.—(1) Section six of the principal Act (which relates to the contents of an improvement scheme) shall be read as if in subsection (1) the words "for sanitary purposes" were omitted in paragraph (*a*);

and as if the following paragraph was inserted at the end of that subsection :—

" and

(*e*) may provide for any other matter (including the closing and diversion of highways) for which it seems expedient to make provision with a view to the improvement of the area or the general efficiency of the scheme."

(2) Provision may be made in a reconstruction scheme under Part II. of the principal Act for any matters for which provision may be made in an improvement scheme made under Part I. of that Act.

24. **Amendment of 3 Edw. 7, c. 39, s. 5.**—(1) Paragraphs (*a*) and (*b*) of subsection (2) of section five of the Housing of the Working Classes Act, 1903 (which limit the cases under which an order confirming an improvement scheme takes effect without con firmation by Parliament), shall cease to have effect.

(2) An order of the Local Government Board sanctioning a reconstruction scheme, and authorising the compulsory purchase of land for the purpose shall, notwithstanding anything in section thirty-nine of the principal Act, take effect without confirmation.

25. **Modification of schemes.**—The Local Government Board may, in the exercise of their power under section fifteen or subsection (9) of section thirty-nine of the principal Act, permit the local authority to modify their scheme, not only by the abandonment of any part of the scheme which it may appear expedient to carry into execution, but also by amending or adding to the scheme in matters of detail in such manner as appears expedient to the Board.

26. **Inquiries by Local Government Board inspectors as to unhealthy areas.**—Any inspector or officer of the Local Government Board, or any person employed by the Board, may be directed to make any inspection or inquiry which is required for the purposes of section sixteen of the principal Act (which relates to inquiries made on the default of a medical officer), and section eighty-five of that Act (which relates to inquiries by the Local Government Board), as amended by this Act, shall apply as respects any inspection or inquiry so held as it applies to local inquiries held under that section.

27. **Amendment as to the vesting of water pipes, etc.**—An improvement scheme under Part I. of the principal Act may, with the consent of the person or body of persons entitled to any right or easement which would be extinguished by virtue of section twenty-two of the principal Act, provide for any exceptions, restrictions, or modifications in the application to that right or easement of that section, and that section shall take effect subject to any such exceptions, restrictions, or modifications.

28. Amendment of section 38 of the principal Act as to distribution of compensation money and as to betterment charges.—(1) The amount of any compensation payable under section thirty-eight of the principal Act (which relates to obstructive buildings) shall, when settled by arbitration in manner provided by that section, be apportioned by the arbitrator between any persons having an interest in the compensation in such manner as the arbitrator determines.

(2) The power of the arbitrator to apportion compensation under the foregoing provision and to apportion any part of the compensation to be paid for the demolition of an obstructive building amongst other buildings under subsection (8) of the said section thirty-eight may be exercised in cases where the amount to be paid for compensation has been settled, otherwise than by arbitration under the principal Act, by an arbitrator appointed for the special purpose, on the application of the local authority, by the Local Government Board, and the provisions of that Act shall apply as if the arbitrator so appointed had been appointed as arbitrator to settle the amount to be paid for compensation.

29. Explanation of sections 21 (2) and 41 (3) of the principal Act.—For removing doubts it is hereby declared that a local authority may tender evidence before an arbitrator to prove the facts under the headings (first) (secondly) (thirdly) mentioned in subsection (2) of section twenty-one and subsection (3) of section forty-one of the principal Act, notwithstanding that the local authority have not taken any steps with a view to remedying the defects or evils disclosed by the evidence.

Amendments with respect to Financial Matters.

30. Amendment as to application of money borrowed for the purpose of the Dwelling-house Improvement Fund.—No deficiency in the Dwelling-house Improvement Fund shall be supplied under subsection (2) of section twenty-four of the principal Act out of borrowed money unless the deficiency arises in respect of money required for purposes to which borrowed money is, in the opinion of the Local Government Board, properly applicable.

31. Expenses of rural district council under Part III. of the principal Act.—(1) The expenses incurred by a rural district council after the passing of this Act in the execution of Part III. of the principal Act shall be defrayed as general expenses of the council in the execution of the Public Health Acts, except so far as the Local Government Board on the application of the council declare that any such expenses are to be levied as special expenses charged on specified contributory places, or as general expenses charged on specified contributory places, in the district, in such proportions as

the district council may determine, to the exclusion of other parts of the district, and a rural district council may borrow for the purposes of Part III. of the principal Act in like manner and subject to the like conditions as for the purpose of defraying the above-mentioned general or special expenses.

(2) The district council shall give notice to the overseers of any contributory place proposed to be charged of any apportionment made by them under this section, and the overseers, if aggrieved by the apportionment, may appeal to the Local Government Board by giving notice of appeal to the Board within twenty-one days after notice has been so given of the apportionment.

32. Application of proceeds of land sold under Part III. of the principal Act.—Where any land vested in a local authority for the purposes of Part III. of the principal Act is sold under section sixty of that Act (which relates to the sale and exchange of lands), the proceeds may be applied not only as provided by that section, but also for any purpose, including repayment of borrowed money, for which capital money may be applied, and which is approved by the Local Government Board.

33. Mode in which contributions by London borough councils to the County Council or vice versâ may be made.—Any payment or contribution agreed or ordered to be made under subsection (6) or (7) of section forty-six of the principal Act, as amended by section fourteen of the Housing of the Working Classes Act, 1903 (which relate to payments or contributions by borough councils towards the expenses of the county council or by the county council towards the expenses of borough councils in London), may be made either by means of the payment of a lump sum or by means of an annual payment of such amount and for such number of years as may be agreed upon or ordered.

34. Exemption from section 133 of 8 & 9 Vict. c. 18.—Section one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845 (relating to Land Tax and poor rate), shall not apply in the case of any lands of which a local authority becomes possessed by virtue of the Housing Acts.

35. Exemption of lodging-houses for the working classes from Inhabited House Duty.—(1) The assessment to inhabited House Duty of any house occupied for the sole purpose of letting lodgings to persons of the working classes, at a charge of not exceeding sixpence a night for each person, shall be discharged by the Commissioners acting in the execution of the Acts relating to the Inhabited House Duties, upon the production of a certificate to the effect that the house is solely constructed and used to afford suitable accommodation for the lodgers, and that due provision is made for their sanitary requirements.

(2) The provisions of subsection (2) of section twenty-six of the Customs and Inland Revenue Act, 1890 (53 & 54 Vict. c. 8), in relation to the certificate mentioned therein, shall, so far as applicable, apply to the certificate to be produced under this section.

General Amendments.

36. Power of entry.—Any person authorised in writing stating the particular purpose or purposes for which the entry is authorised, by the local authority or the Local Government Board, may at all reasonable times, on giving twenty-four hours' notice to the occupier and to the owner, if the owner is known, of his intention, enter any house, premises, or buildings—

(*a*) for the purpose of survey or valuation, in the case of houses, premises, or buildings which the local authority are authorised to purchase compulsorily under the Housing Acts; and

(*b*) for the purpose of survey and examination in the case of any dwelling-house in respect of which a closing order or an order for demolition has been made; or

(*c*) for the purpose of survey and examination, where it appears to the authority or Board that survey or examination is necessary in order to determine whether any powers under the Housing Acts should be exercised in respect of any house, premises, or building.

Notice may be given to the occupier for the purposes of this section by leaving a notice addressed to the occupier, without name or further description, at the house, buildings, or premises.

37. Power of Local Government Board to obtain a report on any crowded area.—If it appears to the Local Government Board that owing to density of population, or any other reason, it is expedient to inquire into the circumstances of any area with a view to determining whether any powers under the Housing Acts should be put into force in that area or not, the Local Government Board may require the local authority to make a report to them containing such particulars as to the population of the district and other matters as they direct, and the local authority shall comply with the requirement of the Local Government Board, and any expenses incurred by them in so doing shall be paid as expenses incurred in the execution of such Part of the principal Act as the Local Government Board determine.

38. Joint action by local authorities.—Where, upon an application made by one of the local authorities concerned, the Local Government Board are satisfied that it is expedient that any local authorities should act jointly for any purposes of the Housing Acts, either generally or in any special case, the Board may by order make

provision for the purpose, and any provisions so made shall have the same effect as if they were contained in a provisional order made under section two hundred and seventy-nine of the Public Health Act, 1875, for the formation of a united district.

39. Appeals to Local Government Board.—(1) The procedure on any appeal under this Part of this Act, including costs, to the Local Government Board shall be such as the Board may by rules determine, and on any such appeal the Board may make such order in the matter as they think equitable, and any order so made shall be binding and conclusive on all parties, and, where the appeal is against any notice, order, or apportionment given or made by the local authority, the notice, order, or apportionment may be confirmed, varied, or quashed, as the Board think just.

Provided that—

(*a*) the Local Government Board may at any stage of the proceedings on appeal, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal; and

(*b*) the rules shall provide that the Local Government Board shall not dismiss any appeal without having first held a public local inquiry.

(2) Any notice, order, or apportionment as respects which an appeal to the Local Government Board is given under this Part of this Act shall not become operative, until either the time within which an appeal can be made under this Part of this Act has elapsed without an appeal being made, or, in case an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under any such notice, order, or apportionment, until it becomes operative.

(3) The Local Government Board may, before considering any appeal which may be made to them under this Part of this Act, require the appellant to deposit such sum to cover the costs of the appeal as may be fixed by the rules made by them with reference to appeals.

40. Sale and disposal of dwellings.—Notwithstanding anything contained in the principal Act it shall not be obligatory upon a local authority to sell and dispose of any lands or dwellings acquired or constructed by them for any of the purposes of the Housing Acts.

41. Power to prescribe forms and to dispense with advertisements and notices.—(1) The Local Government Board may by order prescribe the form of any notice, advertisement, or other document, to be used in connection with the powers and duties of a local authority or of the Board under the Housing Acts, and the forms so prescribed, or forms as near thereto as circumstances admit, shall be used in all cases to which those forms are applicable.

(2) The Local Government Board may dispense with the publication of advertisements or the service of notices required to be published or served by a local authority under the Housing Acts, if they are satisfied that there is reasonable cause for dispensing with the publication or service.

(3) Any such dispensation may be given by the Local Government Board either before or after the time at which the advertisement is required to be published or the notice is required to be served, and either unconditionally or upon such conditions as to the publication of other advertisements or the service of other notices or otherwise as the Board think fit, due care being taken by the Board to prevent the interests of any person being prejudiced by the dispensation.

42. Provision as to publication in London Gazette.—Where under the Housing Acts, any scheme or order or any draft scheme or order is to be published in the London Gazette, or notice of any such scheme or order or draft scheme or order is to be given in the London Gazette, it shall be sufficient in lieu of such publication or notice to insert a notice giving short particulars of the scheme, order, or draft, and stating where copies thereof can be inspected or obtained in two local newspapers circulating in the area affected by the scheme, order, or draft, or to give notice thereof in such other manner as the Local Government Board determine.

43. Prohibition of back-to-back houses.—Notwithstanding anything in any local Act or byelaw in force in any borough or district, it shall not be lawful to erect any back-to-back houses intended to be used as dwellings for the working classes, and any such house commenced to be erected after the passing of this Act shall be deemed to be unfit for human habitation for the purposes of the provisions of the Housing Acts,

Provided that nothing in this section—

(*a*) shall prevent the erection or use of a house containing several tenements in which the tenements are placed back to back, if the medical officer of health for the district certifies that the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement ; or

(*b*) shall apply to houses abutting on any streets the plans whereof have been approved by the local authority before the first day of May nineteen hundred and nine, in any borough or district in which, at the passing of this Act, any local Act or byelaws are in force permitting the erection of back-to-back houses.

44. Power to Local Government Board to revoke unreasonable byelaws.—If the Local Government Board are satisfied, by local inquiry or otherwise, that the erection of dwellings

for the working classes within any borough, or urban or rural district, is unreasonably impeded in consequence of any byelaws with respect to new streets or buildings in force therein, the Board may require the local authority to revoke such byelaws or to make such new byelaws as the Board may consider necessary for the removal of the impediment. If the local authority do not within three months after such requisition comply therewith, the Board may themselves revoke such byelaws, and make such new byelaws as they may consider necessary for the removal of the impediment, and such new byelaws shall have effect as if they had been duly made by the local authority and confirmed by the Board.

45. Saving of sites of ancient monuments, etc.—Nothing in the Housing Acts shall authorise the acquisition for the purposes of those Acts of any land which is the site of an ancient monument or other object of archæological interest, or the compulsory acquisition for the purposes of Part III. of the Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70), of any land which is the property of any local authority or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or which at the date of the order forms part of any park, garden, or pleasure ground, or is otherwise required for the amenity or convenience of any dwelling-house.

46. Minor amendments of Housing Acts.—The amendments specified in the second column of the Second Schedule to this Act, which relate to minor details, shall be made in the provisions of the Housing Acts specified in the first column of that Schedule, and section sixty-three of the principal Act (which relates to the disqualification of tenants of lodging-houses on receiving poor relief) shall be repealed.

Definitions.

47. Provisions of this Part to be deemed to be part of the appropriate Part of the principal Act.—(1) Any provisions of this Act which supersede or amend any provisions of the principal Act shall be deemed to be part of that Part of the principal Act in which the provisions superseded or amended are contained.

(2) Any reference in the Housing Acts to a closing order or to an order for the demolition of a building shall be construed as a reference to a closing order or an order of demolition under this Act.

48. Amendment of definitions in Part I. of the principal Act.—The expression "street" shall, unless the context otherwise requires, have the same meaning in Part I. of the principal Act as it has in Part II. of that Act, and shall include any court, alley, street, square, or row of houses.

49. Amendment of definitions for purpose of Part II. of the principal Act.—(1) The words "means any inhabited building and" shall be omitted from the definition of "dwelling-house" in section twenty-nine of the principal Act.

(2) For the definition of owner in the same section the following definition shall be substituted :—

"The expression 'owner,' in addition to the definition given by the Lands Clauses Acts, includes all lessees or mortgagees of any premises required to be dealt with under this Part of this Act, except persons holding or entitled to the rents and profits of such premises under a lease the original term whereof is less than twenty-one years."

50. Definition of cottage.—For the definition of cottage in section fifty-three of the principal Act the following definition shall be substituted :—

The expression "cottage" in this Part of this Act may include a garden of not more than one acre.

51. Definition of Housing Acts.—In this Part of this Act the expression "Housing Acts" means the principal Act, and any Act amending that Act, including this Act.

Application of Part I. to Scotland.

52. Extension of 63 & 64 Vict. c. 59 and 3 Edw. 7, c. 39, to Scotland.—Subject as herein-after provided, the Housing of the Working Classes Act, 1900, and the Housing of the Working Classes Act, 1903, shall as amended by this Act apply to Scotland.

53. Application of Housing Acts to Scotland.—In addition to the provisions of the principal Act respecting the application of that Act to Scotland, the following provisions shall have effect in the application of the Housing Acts to Scotland :—

(1) The Local Government Board for Scotland (herein-after in this section referred to as the Board) shall, except as otherwise provided, be substituted for the Local Government Board, and shall also in Part III. of the principal Act as amended and in section five of the Housing of the Working Classes Act, 1900, be substituted for the county council :

(2) The Lord Advocate shall be substituted for the Attorney-General :

(3) The expression "Public Health Acts" means the Public Health (Scotland) Act, 1897 (60 & 61 Vict. c. 38), and any Act amending the same. References to the Public Health Act, 1875, shall, unless the context otherwise requires, be construed as references to the Public Health

(Scotland) Act, 1897, a reference to an order under section eighty-three of the Public Health (Scotland) Act, 1897, shall be substituted for a reference to a provisional order under section two hundred and seventy-nine of the Public Health Act, 1875, and a reference to section seventy-two of the Public Health (Scotland) Act, 1897, shall be substituted for a reference to section ninety of the Public Health Act, 1875 :

(4) The reference in section fifty-seven of the principal Act to sections of the Public Health Act, 1875, relating to the purchase of lands, shall be construed as a reference to the corresponding sections of the Public Health (Scotland) Act, 1897 : Provided that for the purposes of Part III. of the principal Act the procedure under section two of this Act for the compulsory purchase of land shall be substituted for the procedure for the compulsory purchase of land under section one hundred and forty-five of the Public Health (Scotland) Act, 1897 :

(5) The district and the local authority for the purposes of the Public Health (Scotland) Act, 1897, shall respectively be the district and the local authority, and the public health general assessment shall be the local rate, for the purposes of the Housing Acts ; provided that such local rate shall not be reckoned in any calculation as to the statutory limit of the public health general assessment ; and provided further that a local authority not being a town council may, where so authorised by the Board in terms of the Housing Acts, assess and levy such local rate upon all lands and heritages within one or more of the parishes or special districts comprised in their district, to the exclusion of other parishes or special districts within the district :

(6) A local authority may, with the consent of the Board, borrow money for the purposes authorised in the Housing Acts on the security of the local rate in the same manner, and subject to the same conditions as nearly as may be, as they may borrow for the provision of permanent hospitals under the Public Health (Scotland) Act, 1897 ; provided that all money so borrowed shall, notwithstanding the terms of section one hundred and forty-one of the said Act, be wholly repaid together with the accruing interest within such period not exceeding eighty years from the date of the loan as the Board may determine in each case :

(7) The expressions "urban sanitary authority" and "rural sanitary authority" or "rural district council" mean respectively the local authority (for the purposes of the Public Health (Scotland) Act, 1897) of a burgh and of a district not being a burgh, and the expressions "urban

district" and "rural district" shall be construed accordingly :

(8) The Acts relating to nuisances mean as respects any place the Public Health (Scotland) Act, 1897 (60 & 61 Vict. c. 38), and the Local Government (Scotland) Act, 1889 (52 & 53 Vict. c. 50), and any Act amending the same or either of them, and any local Act which contains any provisions with respect to nuisances in that place :

(9) Except so far as inconsistent with the provisions of subsection (1) of section eighty-five of the principal Act, sections seven, eight, nine, and ten of the Public Health (Scotland) Act, 1897, shall apply for the purpose of local inquiries ordered by the Board under the Housing Acts :

(10) Section one, subsection (1) of section four, and section ten of the Housing of the Working Classes Act, 1903, shall not apply. In the last-mentioned Act sections three and twelve shall apply with the substitution of the date of the passing of this Act for the date of the passing of that Act, and the Schedule shall apply with the modifications specified in the Third Schedule to this Act :

(11) Where a complaint is made to the Board—

(*a*) as respects the district of a local authority not being a town council, by the county council, or by the parish council or landward committee of any parish comprised in the district, or by any four inhabitant householders of the district ; or

(*b*) as respects any other district by any four inhabitant householders of the district ;

that the local authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held, and if, after holding such an inquiry, the Board are satisfied that there has been such a failure on the part of the local authority, it shall be lawful for the Board, with the approval of the Lord Advocate, to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just. Section ten of this Act shall not apply :

(12) Where it appears to the Board that a local authority have failed to perform their duty under the Housing Acts of carrying out an improvement scheme under Part I. of the principal Act, or have failed to make, or, if made, to give effect to, any order as respects an obstructive building, or any reconstruction scheme, under Part II. of that

Act, or have failed to cause to be made the inspection of their district required by this Act, it shall be lawful for the Board to apply by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed as in the immediately preceding subsection. Section eleven of this Act shall not apply :

(13) Section twelve and section thirteen of this Act shall not apply :

(14) Sections fifteen, seventeen, eighteen, and thirty-nine of this Act shall apply with the substitution (except as regards the making of or consenting to regulations) of the sheriff for the Local Government Board and of the Court of Session for the High Court ; provided that the reference to a public local inquiry shall not apply, and provided further that where an appeal is competent under any of these sections, an appeal shall not be competent under section thirty-five of the principal Act, and provided also that the power to make rules under section thirty-nine of this Act shall be exercised by the Court of Session by act of sederunt. Section one hundred and forty-six of the Public Health (Scotland) Act, 1897 (60 & 61 Vict. c. 38) (prescribing the procedure if a local authority neglects its duty), shall have effect as if the duties imposed upon a local authority by sections seventeen and eighteen of this Act were duties imposed by that Act :

(15) In the application to Scotland of section fourteen of this Act the limit of rent shall be sixteen pounds :

(16) References to special expenses shall not apply :

(17) "Overseers" means parish council, "paid into court" means "paid into bank," "as a civil debt in manner provided by the Summary Jurisdiction Acts" means in a summary manner.

Part II.

Town Planning.

54. Preparation and approval of town planning scheme.—(1) A town planning scheme may be made in accordance with the provisions of this Part of this Act as respects any land which is in course of development or appears likely to be used for building purposes, with the general object of securing proper sanitary conditions, amenity, and convenience in connexion with the laying out and use of the land, and of any neighbouring lands.

(2) The Local Government Board may authorise a local authority within the meaning of this Part of this Act to prepare such a town

planning scheme with reference to any land within or in the neighbourhood of their area, if the authority satisfy the Board that there is a primâ facie case for making such a scheme, or may authorise a local authority to adopt, with or without any modifications, any such scheme proposed by all or any of the owners of any land with respect to which the local authority might themselves have been authorised to prepare a scheme.

(3) Where it is made to appear to the Local Government Board that a piece of land already built upon, or a piece of land not likely to be used for building purposes, is so situated with respect to any land likely to be used for building purposes that it ought to be included in any town planning scheme made with respect to the last-mentioned land, the Board may authorise the preparation or adoption of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(4) A town planning scheme prepared or adopted by a local authority shall not have effect, unless it is approved by order of the Local Government Board, and the Board may refuse to approve any scheme except with such modifications and subject to such conditions as they think fit to impose:

Provided that, before a town planning scheme is approved by the Local Government Board, notice of their intention to do so shall be published in the London or Edinburgh Gazette, as the case may be, and, if within twenty-one days from the date of such publication any person or authority interested objects in the prescribed manner, the draft of the order shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses before the expiration of those thirty days presents an address to His Majesty against the draft, or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft scheme.

(5) A town planning scheme, when approved by the Local Government Board, shall have effect as if it were enacted in this Act.

(6) A town planning scheme may be varied or revoked by a subsequent scheme prepared or adopted and approved in accordance with this Part of this Act, and the Local Government Board, on the application of the responsible authority, or of any other person appearing to them to be interested, may by order revoke a town planning scheme if they think that under the special circumstances of the case the scheme should be so revoked.

(7) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Local Government

Board, whether land is likely to be used for building purposes or not, shall be final.

55. **Contents of town planning schemes.**—(1) The Local Government Board may prescribe a set of general provisions (or separate sets of general provisions adapted for areas of any special character) for carrying out the general objects of town planning schemes, and in particular for dealing with the matters set out in the Fourth Schedule to this Act, and the general provisions, or set of general provisions appropriate to the area for which a town planning scheme is made, shall take effect as part of every scheme, except so far as provision is made by the scheme as approved by the Board for the variation or exclusion of any of those provisions.

(2) Special provisions shall in addition be inserted in every town planning scheme defining in such manner as may be prescribed by regulations under this Part of this Act the area to which the scheme is to apply, and the authority who are to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme or this Part of this Act are to be executed by a local authority (in this Part of this Act referred to as the responsible authority), and providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding, or varying the general provisions, and also for dealing with any special circumstances or contingencies for which adequate provision is not made by the general provisions, and for suspending, so far as necessary for the proper carrying out of the scheme, any statutory enactments, byelaws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme :—

Provided that, where the scheme contains provisions suspending any enactment contained in a public general Act, the scheme shall not come into force unless a draft thereof has been laid before each House of Parliament for a period of not less than forty days during the session of Parliament, and, if either of those Houses before the expiration of those forty days presents an Address to His Majesty against the proposed suspension no further proceedings shall be taken on the draft, without prejudice to the making of any new scheme.

(3) Where land included in a town planning scheme is in the area of more than one local authority, or is in the area of a local authority by whom the scheme was not prepared, the responsible authority may be one of those local authorities, or for certain purposes of the scheme one local authority and for certain purposes another local authority, or a joint body constituted specially for the purpose by the scheme, and all necessary provisions may be made by the scheme for constituting the joint body and giving them the necessary powers and duties :

Provided that, except with the consent of the London County Council, no other local authority shall, as respects any land in the

county of London, prepare or be responsible for enforcing the observance of a town planning scheme under this Part of this Act, or for the execution of any works which under the scheme or this Part of this Act are to be executed by a local authority.

56. Procedure regulations of the Local Government Board.—(1) The Local Government Board may make regulations for regulating generally the procedure to be adopted with respect to applications for authority to prepare or adopt a town planning scheme, the preparation of the scheme, obtaining the approval of the Board to a scheme so prepared or adopted, and any inquiries, reports, notices, or other matters required in connection with the preparation or adoption or the approval of the scheme or preliminary thereto, or in relation to the carrying out of the scheme or enforcing the observance of the provisions thereof.

(2) Provision shall be made by those regulations—

(*a*) for securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings, by means of conferences and such other means as may be provided by the regulations ;

(*b*) for securing that notice of the proposal to prepare or adopt the scheme should be given at the earliest stage possible to any council interested in the land ; and

(*c*) for dealing with the other matters mentioned in the Fifth Schedule to this Act.

57. Power to enforce scheme.—(1) The responsible authority may at any time, after giving such notice as may be provided by a town planning scheme and in accordance with the provisions of the scheme—

(*a*) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme, or in the erection or carrying out of which any provision of the scheme has not been complied with ; or

(*b*) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by a responsible authority under this section may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the scheme.

(3) If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the Local Government Board, and shall, unless the parties otherwise

agree, be determined by the Board as arbitrators, and the decision of the Board shall be final and conclusive and binding on all persons.

58. **Compensation in respect of property injuriously affected by scheme, etc.**—(1) Any person whose property is injuriously affected by the making of a town planning scheme shall, if he makes a claim for the purpose within the time (if any) limited by the scheme, not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Local Government Board, be entitled to obtain compensation in respect thereof from the responsible authority.

(2) A person shall not be entitled to obtain compensation under this section on account of any building erected on, or contract made or other thing done with respect to, land included in a scheme, after the time at which the application for authority to prepare the scheme was made, or after such other time as the Local Government Board may fix for the purpose:

Provided that this provision shall not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun or of carrying out a contract entered into before the application was made.

(3) Where, by the making of any town planning scheme, any property is increased in value, the responsible authority, if they make a claim for the purpose within the time (if any) limited by the scheme (not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Local Government Board), shall be entitled to recover from any person whose property is so increased in value one-half of the amount of that increase.

(4) Any question as to whether any property is injuriously affected or increased in value within the meaning of this section, and as to the amount and manner of payment (whether by instalments or otherwise) of the sum which is to be paid as compensation under this section or which the responsible authority are entitled to recover from a person whose property is increased in value, shall be determined by the arbitration of a single arbitrator appointed by the Local Government Board, unless the parties agree on some other method of determination.

(5) Any amount due under this section as compensation to a person aggrieved from a responsible authority, or to a responsible authority from a person whose property is increased in value, may be recovered summarily as a civil debt.

(6) Where a town planning scheme is revoked by an order of the Local Government Board under this Act, any person who has incurred expenditure for the purpose of complying with the scheme shall be entitled to compensation in accordance with this section in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme.

59. Exclusion or limitation of compensation in certain cases.—(1) Where property is alleged to be injuriously affected by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof if or so far as the provisions are such as would have been enforceable if they had been contained in byelaws made by the local authority.

(2) Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in a town planning scheme, which, with a view to securing the amenity of the area included in the scheme or any part thereof, prescribe the space about buildings or limit the number of buildings to be erected, or prescribe the height or character of buildings, and which the Local Government Board, having regard to the nature and situation of the land affected by the provisions, consider reasonable for the purpose.

(3) Where a person is entitled to compensation under this Part of this Act in respect of any matter or thing, and he would be entitled to compensation in respect of the same matter or thing under any other enactment, he shall not be entitled to compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be entitled to under the other enactment.

60. Acquisition by local authorities of land comprised in a scheme.—(1) The responsible authority may, for the purpose of a town planning scheme, purchase any land comprised in such scheme by agreement, or be authorised to purchase any such land compulsorily in the same manner and subject to the same provisions (including any provision authorising the Local Government Board to give directions as to the payment and application of any purchase money or compensation) as a local authority may purchase or be authorised to purchase land situate in an urban district for the purposes of Part III. of the Housing of the Working Classes Act, 1890, as amended by sections two and forty-five of this Act.

(2) Where land included within the area of a local authority is comprised in a town planning scheme, and the local authority are not the responsible authority, the local authority may purchase or be authorised to purchase that land in the same manner as the responsible authority.

61. Powers of Local Government Board in case of default of local authority to make or execute town planning scheme.—(1) If the Local Government Board are satisfied on any representation, after holding a public local inquiry, that a local authority—

(*a*) have failed to take the requisite steps for having a satisfactory town planning scheme prepared and approved in a case where a town planning scheme ought to be made; or

(*b*) have failed to adopt any scheme proposed by owners of any land in a case where the scheme ought to be adopted; or

(*c*) have unreasonably refused to consent to any modifications or conditions imposed by the Board;

the Board may, as the case requires, order the local authority to prepare and submit for the approval of the Board such a town planning scheme, or to adopt the scheme, or to consent to the modifications or conditions so inserted:

Provided that, where the representation is that a local authority have failed to adopt a scheme, the Local Government Board, in lieu of making such an order as aforesaid, may approve the proposed scheme, subject to such modifications or conditions, if any, as the Board think fit, and thereupon the scheme shall have effect as if it had been adopted by the local authority and approved by the Board.

(2) If the Local Government Board are satisfied on any representation, after holding a local inquiry, that a responsible authority have failed to enforce effectively the observance of a scheme which has been confirmed, or any provisions thereof, or to execute any works which under the scheme or this Part of this Act the authority is required to execute, the Board may order that authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme or this Part of this Act the authority is required to execute.

(3) Any order under this section may be enforced by mandamus.

62. Determination of matters by Local Government Board.—Where the Local Government Board are authorised by this Part of this Act or any scheme made thereunder to determine any matter, it shall, except as otherwise expressly provided by this Part of this Act, be at their option to determine the matter as arbitrators or otherwise, and, if they elect or are required to determine the matter as arbitrators, the provisions of the Regulation of Railways Act, 1868 (31 & 32 Vict. c. 119), respecting arbitrations by the Board of Trade, and the enactments amending those provisions, shall apply as if they were herein re-enacted and in terms made applicable to the Local Government Board and the determination of the matters aforesaid.

63. Inquiries by Local Government Board.—Section eighty-five of the Housing of the Working Classes Act, 1890 (which relates to inquiries by the Local Government Board), as amended by this Act, shall apply for any purposes of this Part of this Act as it applies for the purpose of the execution of the powers and duties of the Local Government Board under that Act.

64. Laying general provisions before Parliament.—All general provisions made under this Part of this Act shall be laid

as soon as may be before Parliament, and the Rules Publication Act, 1893 (56 & 57 Vict. c. 66), shall apply to such provisions as if they were statutory rules within the meaning of section one of that Act.

65. Definition of local authority, and expenses.—(1) For the purposes of this Part of this Act the expression "local authority" means the council of any borough or urban or rural district.

(2) Any expenses incurred by a local authority under this Part of this Act, or any scheme made thereunder, shall be defrayed as expenses of the authority under the Public Health Acts, and the authority may borrow, for the purposes of this Part of this Act, or any scheme made thereunder, in the same manner and subject to the same provisions as they may borrow for the purposes of the Public Health Acts.

(3) Money borrowed for the purposes of this Part of this Act, or any scheme made thereunder, shall not be reckoned as part of the debt of a borough or urban district for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875.

66. Application to London.—(1) This Part of this Act shall apply to the administrative county of London, and, as respects that county, the London County Council shall be the local authority.

(2) Any expenses incurred by the London County Council shall be defrayed out of the general county rate and any money may be borrowed by the Council in the same manner as money may be borrowed for general county purposes.

67. Application of Part II. to Scotland.—This Part of this Act shall apply to Scotland subject to the following modifications:—

(1) The Local Government Board for Scotland (herein-after referred to as the Board) shall be substituted for the Local Government Board, and shall for the purposes of this Part of this Act have the same powers of local inquiry as for the purposes of the Housing Acts as defined in Part I. of this Act.

(2) Subsection (1) and subsection (3) of the section of this Part of this Act which relates to the definition of local authority and expenses shall not apply.

(3) The local authority and the area of such authority for the purposes of this Part of this Act shall respectively be the local authority for the purposes of the Housing Acts as defined in Part I. of this Act, and the district of that authority.

(4) References to the Public Health Acts shall be construed as references to the Housing Acts as defined in Part I. of this Act.

(5) Any local rate for the purposes of this Part of this Act (including the purposes of any loan) shall not be reckoned in any calculation as to the statutory limit of the public health general assessment.

(6) The Board shall not themselves make an order under section sixty-one of this Act on any authority, but in lieu thereof it shall be lawful for the Board, after holding a local inquiry at which the authority shall have had an opportunity of being heard, and with the approval of the Lord Advocate, to apply for such an order by summary petition to either Division of the Court of Session, or during vacation or recess to the Lord Ordinary on the Bills, which Division or Lord Ordinary are hereby authorised and directed to do therein and to dispose of the expenses of the proceedings as to the said Division or Lord Ordinary shall appear to be just.

(7) In any proceedings under this Part of this Act the Board shall have regard to the powers and jurisdiction of the dean of guild court in burghs.

(8) The provision respecting the Rules Publication Act, 1893, shall have effect as if section one of that Act applied to Scotland, with the substitution of the "Edinburgh Gazette" for the "London Gazette."

Part III.

County Medical Officers, County Public Health and Housing Committee, Etc.

68. Appointment, duties, and tenure of office of county medical officers.—(1) Every county council shall appoint a medical officer of health under section seventeen of the Local Government Act, 1888 (51 & 52 Vict. c. 41).

(2) The duties of a medical officer of health of a county shall be such duties as may be prescribed by general order of the Local Government Board and such other duties as may be assigned to him by the county council.

(3) The power of county councils and district councils under the said section to make arrangements with respect to medical officers of health shall cease, without prejudice to any arrangement made previously to the date of the passing of this Act.

(4) The medical officer of health of a county shall, for the purposes of his duties, have the same powers of entry on premises as are conferred on a medical officer of health of a district by or under any enactment.

(5) A medical officer of health of a county shall be removable by the county council with the consent of the Local Government Board and not otherwise.

(6) A medical officer of health of a county shall not be appointed for a limited period only:

Provided that the county council may, with the sanction of the Local Government Board, make any temporary arrangement for the performance of all or any of the duties of the medical officer of health of the county, and any person appointed by virtue of any such arrangement to perform those duties or any of them shall, subject to the terms of his appointment, have all the powers, duties, and liabilities of the medical officer of health of the county.

(7) A medical officer of health appointed after the passing of this Act under the said section as amended by this section shall not engage in private practice, and shall not hold any other public appointment without the express written consent of the Local Government Board.

(8) An order under this section prescribing the duties of medical officers of health of a county shall be communicated to the county council and shall be laid before Parliament as soon as may be after it is made, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-one days on which that House has sat next after the order is laid before it praying that the order may be annulled, His Majesty in Council may annul the order and it shall thenceforward be void, but without prejudice to the validity of anything previously done thereunder.

69. Duty of clerk and medical officer of health of district council to furnish information to medical officer of health of county council.—(1) The clerk of a rural district council shall forward to the medical officer of health of the county a copy of any representation, complaint, or information, a copy of which it is the duty of the district council to forward to the county council under section forty-five of the Housing of the Working Classes Act, 1890 (which relates to the powers of county councils).

(2) The medical officer of health of a district shall give to the medical officer of health of the county any information which it is in his power to give, and which the medical officer of health of the county may reasonably require from him for the purpose of his duties prescribed by the Local Government Board.

(3) If any dispute or difference shall arise between the clerk or the medical officer of health of a district council and the medical officer of health of a county council under this section, the same shall be referred to the Local Government Board, whose decision shall be final and binding.

(4) If the clerk or medical officer of health of a district council fails to comply with the provisions of this section, he shall on information being laid by the county council, but not otherwise, be liable on summary conviction in respect of each offence to a fine not exceeding ten pounds.

70. Extent of Part III.—The foregoing provisions of this Part of this Act shall not apply to Scotland or, except subsection (4) of section sixty-eight, to the administrative county of London, and, in the application of the said subsection to London, the reference to a medical officer of health of a district shall be construed as a reference to the medical officer of health of a metropolitan borough.

71. Public health and housing committee of county councils.—(1) Every county council shall establish a public health and housing committee, and all matters relating to the exercise and performance by the council of their powers and duties as respects public health and the housing of the working classes (except the power of raising a rate or borrowing money) shall stand referred to the public health and housing committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the public health and housing committee with respect to the matter in question, and the council may also delegate to the public health and housing committee, with or without restrictions or conditions as they think fit, any of their powers as respects public health and the housing of the working classes, except the power of raising a rate or borrowing money and except any power of resolving that the powers of a district council in default should be transferred to the council.

(2) This section shall not apply to Scotland or the London County Council.

72. Formation and extension of building societies.—(1) The county council may promote the formation or extension of and may, subject to the provisions of this section, assist societies on a co-operative basis, having for their object or one of their objects the erection or improvement of dwellings for the working classes.

(2) The county council, with the consent of and subject to the regulations made by the Local Government Board, may for the purpose of assisting a society make grants or advances to the society, or guarantee advances made to the society, upon such terms and conditions as to rate of interest and repayment, or otherwise, and on such security, as the council think fit, and the making of such grants or advances shall be a purpose for which a council may borrow :

Provided that the regulations of the Board shall provide that any such advance made on the security of any property shall not exceed two-thirds of the value of that property.

Part IV.

Supplemental.

73. Provisions as to commons and open spaces.—(1) Where any scheme or order under the Housing Acts or Part II. of this Act authorises the acquisition or appropriation to any other

purpose of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the scheme or order provides for giving in exchange for such land other land, not being less in area, certified by the Local Government Board after consultation with the Board of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public.

(2) Before giving any such certificate the Board shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any such scheme or order authorises such an exchange, the scheme or order shall provide for vesting the land given in exchange in the persons in whom the common or open space was vested, subject to the same rights, trusts, and incidents as attached to the common or open space, and for discharging the part of the common, open space, or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Act the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

74. Provisions as to land in neighbourhood of royal palaces or parks.—(1) Where any land proposed to be included in any scheme or order to be made under the Housing Acts or Part II. of this Act, or any land proposed to be acquired under the Housing Acts or Part II. of this Act, is situate within the prescribed distance from any of the royal palaces or parks, the local authority shall, before preparing the scheme or order or acquiring the land, communicate with the Commissioners of Works, and the Local Government Board shall, before confirming the scheme or order or authorising the acquisition of the land or the raising of any loan for the purpose, take into consideration any recommendations they may have received from the Commissioners of Works with reference to the proposal.

(2) For the purposes of this section "prescribed" means prescribed by regulations made by the Local Government Board after consultation with the Commissioners of Works.

75. Repeal.—The enactments mentioned in the Sixth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

76. Short title and extent.—(1) This Act may be cited as the Housing, Town Planning, etc. Act, 1909, and Part I. of this Act shall be construed as one with the Housing of the Working Classes Acts, 1890 to 1903, and that Part of this Act and those Acts may be cited together as the Housing of the Working Classes Acts, 1890 to 1909.

(2) This Act shall not extend to Ireland.

SCHEDULES.

FIRST SCHEDULE.

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND BY A LOCAL AUTHORITY FOR THE PURPOSES OF PART III. OF THE HOUSING OF THE WORKING CLASSES ACT, 1890.

(1) Where a local authority propose to purchase land compulsorily under this Act, the local authority may submit to the Board an order putting in force as respects the land specified in the order the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) An order under this schedule shall be of no force unless and until it is confirmed by the Board, and the Board may confirm the order either without modification or subject to such modifications as they think fit, and an order when so confirmed shall, save as otherwise expressly provided by this Schedule, become final and have effect as if enacted in this Act; and the confirmation by the Board shall be conclusive evidence that the requirements of this Act have been complied with, and that the order has been duly made and is within the powers of this Act.

(3) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase being compulsory.

(4) The order shall be in the prescribed form, and shall contain such provisions as the Board may prescribe for the purpose of carrying the order into effect, and of protecting the local authority and the persons interested in the land, and shall incorporate, subject to the necessary adaptations, the Lands Clauses Acts (except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845) (8 & 9 Vict. c. 18), and sections seventy-seven to eighty-five of the Railway Clauses Consolidation Act, 1845, (8 & 9 Vict. c. 20), but subject to this modification, that any question of disputed compensation shall be determined by a single arbitrator appointed by the Board, who shall be deemed to be an arbitrator within the meaning of the Lands Clauses Acts, and the provisions of those Acts with respect to arbitration shall, subject to the provisions of this schedule, apply accordingly.

(5) The order shall be published by the local authority in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired, and to the owners, lessees, and occupiers of that land as may be prescribed.

(6) If within the prescribed period no objection to the order has been presented to the Board by a person interested in the land, or if every such objection has been withdrawn, the Board shall, without further inquiry, confirm the order, but, if such an objection has been presented and has not been withdrawn, the Board shall forthwith cause a public inquiry to be held in the locality in which the land is proposed to be acquired, and the local authority and all persons interested in the land and such other persons as the person holding the inquiry in his discretion thinks fit to allow shall be permitted to appear and be heard at the inquiry.

(7) Where the land proposed to be acquired under the order consists of or comprises land situate in London, or a borough, or urban district, the Board shall appoint an impartial person, not in the employment of any Government Department, to hold the inquiry as to whether the land proposed to be acquired is suitable for the purposes for which it is sought to be acquired, and whether, having regard to the extent or situation of the land and the purposes for which it is used, the land can be acquired without undue detriment to the persons interested therein or the owners of adjoining land, and such person shall in England have for the purpose of the inquiry all the powers of an inspector of the Local Government Board, and, if he reports that the land, or any part thereof, is not suitable for the purposes for which it is sought to be acquired, or that owing to its extent or situation or the purpose for which it is used it cannot be acquired without such detriment as aforesaid, or that it ought not to be acquired except subject to the conditions specified in his report, then, if the Local Government Board confirm the order in respect of that land, or part thereof, or, as the case may require, confirm it otherwise than subject to such modifications as are required to give effect to the specified conditions, the order shall be provisional only, and shall not have effect unless confirmed by Parliament.

Where no part of the land is so situated as aforesaid, before confirming the order, the Board shall consider the report of the person who held the inquiry, and all objections made thereat.

(8) The arbitrator shall, so far as practicable, in assessing compensation act on his own knowledge and experience, but, subject as aforesaid, at any inquiry or arbitration held under this schedule the person holding the inquiry or arbitration shall hear, by themselves or their agents, any authorities or parties authorised to appear, and shall hear witnesses, but shall not, except in such cases as the Board otherwise direct, hear counsel or expert witnesses.

(9) The Board may, with the concurrence of the Lord Chancellor, make rules fixing a scale of costs to be applicable on an arbitration under this schedule, and an arbitrator under this schedule may,

notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily and any other costs which he considers to have been caused or incurred unnecessarily.

(10) The remuneration of an arbitrator appointed under this schedule shall be fixed by the Board.

(11) In construing for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.

(12) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

(13) In this schedule the expression "Board" means the Local Government Board, and the expression "prescribed" means prescribed by the Board.

(14) The provisions of this schedule, except those relating to land belonging to an ecclesiastical benefice, shall apply to Scotland, subject to the following modifications:—

(*a*) for the reference to section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845, there shall be substituted a reference to section one hundred and twenty of the Lands Clauses Consolidation (Scotland) Act, 1845 (8 & 9 Vict. c. 19), and for the reference to sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, there shall be substituted a reference to sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845 (8 & 9 Vict. c. 33);

(*b*) for references to an arbitrator there shall be substituted references to an arbiter;

(*c*) for the references to the Lord Chancellor there shall be substituted a reference to the Lord Advocate;

(*d*) for the reference to the Local Government Board there shall be substituted a reference to the Local Government Board for Scotland, and for the reference to a borough or urban district there shall be substituted a reference to a burgh.

SECOND SCHEDULE.

MINOR AMENDMENTS OF HOUSING ACTS.

Enactment to be amended.	Nature of Amendment.
Housing of the Working Classes Act, 1890 (53 & 54 Vict. c. 70).	
Section 23 - - -	After the word "displaced" the words "in consequence of" shall be substituted for the word "by."
Section 34 - - -	The words "the order becomes operative" shall be substituted for the words "service of the order."
Section 35 - - -	The words "if he is not entitled to appeal to the Local Government Board against the order" shall be inserted after the word "may" where it first occurs.
Section 38 (1) (*a*) -	The words "or impedes" shall be inserted after the word "stops."
Section 38 (7) - -	The words "house or other building or manufactory" shall be substituted for the words "house or manufactory" wherever they occur in that subsection.
Section 39 (8) - -	The words "as amended by any subsequent Act" shall be inserted after the word "Act" where it first occurs, and the words "to the power of the Local Government Board to enforce that duty" shall be inserted after the word "execution."
Section 40 - - -	After the word "displaced" the words "in consequence of" shall be substituted for the word "by."
Section 85 - - -	The words "powers and" shall be inserted before the word "duties."
Section 88 - - -	The words "or Part III." shall be inserted after the words "Part II."
Section 89 - - -	After the word "Act" where it first occurs the words "or any person authorised to enter dwelling-houses, premises, or buildings in pursuance of this Act" shall be inserted; the words "authority or person" shall be substituted for the words "or authority," and the word "he" shall be substituted for the words "such person."

THIRD SCHEDULE.

MODIFICATIONS OF THE SCHEDULE TO THE HOUSING OF THE WORKING CLASSES ACT, 1903, IN ITS APPLICATION TO SCOTLAND.

In the above-mentioned schedule, as applying to Scotland, the expression "district within the meaning of the Public Health "(Scotland) Act, 1897," shall be substituted for the expressions

" borough," " urban district," and " parish " respectively ; " Local " Government Board for Scotland " shall be substituted for " Local " Government Board " ; " every such appropriation of lands shall " be recorded as a real burden affecting such lands in the appro- " priate register of sasines " shall be substituted for " every con- " veyance, demise, or lease of any such lands shall be endorsed with " notice of this provision " ; " subsections one and three (with the " substitution of the Local Government Board for Scotland for " the Secretary for Scotland) of section ninety-three of the Local " Government (Scotland) Act, 1889 " shall be substituted for " sub- " sections one and five of section eighty-seven of the Local Govern- " ment Act, 1888 " ; " Court of Session " shall be substituted for " High Court " ; " order of the Court of Session on the application " of the Board " shall be substituted for " mandamus " ; and " local " authority for the purposes of the Public Health (Scotland) Act, " 1897, in whose district " shall be substituted for " council of any " administrative county and the district council of any county " district ; or in London the council of any metropolitan borough, " in which."

FOURTH SCHEDULE.

MATTERS TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE LOCAL GOVERNMENT BOARD.

1. Streets, roads, and other ways, and stopping up, or diversion of existing highways.
2. Buildings, structures, and erections.
3. Open spaces, private and public.
4. The preservation of objects of historical interest or natural beauty.
5. Sewerage, drainage, and sewage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction or variation of private rights of way and other easements.
10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.
11. Power of entry and inspection.
12. Power of the responsible authority to remove, alter, or demolish any obstructive work.
13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.
14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the object of any town planning scheme, and provision for regulating the administration of any such money or property and for the exemption of any

assurance with respect to money or property so accepted from enrolment under the Mortmain and Charitable Uses Act, 1888.

15. Application with the necessary modifications and adaptations of statutory enactments.

16. Carrying out and supplementing the provisions of this Act for enforcing schemes.

17. Limitation of time for operation of scheme.

18. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested by means of conferences, etc.

19. Charging on the inheritance of any land the value of which is increased by the operation of a town planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land.

FIFTH SCHEDULE.

1. Procedure anterior to and for the purpose of an application for authority to prepare or adopt a scheme :—

(*a*) Submission of plans and estimates.

(*b*) Publication of notices.

2. Procedure during, on, and after the preparation or adoption and before the approval of the scheme :—

(*a*) Submission to the Local Government Board of the proposed scheme, with plans and estimates.

(*b*) Notice of submission of proposed scheme to the Local Government Board.

(*c*) Hearing of objections and representations by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme.

(*d*) Publication of notice of intention to approve scheme and the lodging of objections thereto.

3. Procedure after the approval of the scheme :—

(*a*) Notice to be given of approval of scheme.

(*b*) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme.

4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.

5. The details to be specified in plans, including, wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings.

SIXTH SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Section seventeen, from "who shall not hold" to end of the section.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890.	The words "for sanitary purposes" in paragraph (*a*) of subsection (1) of section six. Subsection (6) of section eight, and section nine. Subsection (5) of section twelve. Subsection (2) of section fifteen, including the proviso thereto. Sections seventeen, eighteen, and nineteen. In section twenty-five, the words at the end of the section "such loan shall be repaid within such period, not exceeding fifty years, as may be recommended by the confirming authority." Sections twenty-seven and twenty-eight. In section twenty-nine, the words "means any inhabited building and" in the definition of "dwelling-house." Sections thirty-two and thirty-three. In section thirty-nine, the words "by agreement" in subsection (4) where those words first occur, and all after the word "sanctioned" to the end of that subsection; subsections (5) and (6); the words "to costs to be awarded in certain cases by a Committee of either House of Parliament" in subsection (8); and subsection (9) from "Provided that" to the end. In subsection (3) of section forty-seven, the words "the time allowed under any order for the execution of any works or the demolition of a building, or." In section fifty-three, subsection (2). Section fifty-four, so far as unrepealed. Section fifty-five, so far as it applies to Scotland.

Session and Chapter.	Short Title.	Extent of Repeal.
53 & 54 Vict. c. 70.	The Housing of the Working Classes Act, 1890—*cont.*	Section sixty-three. Section sixty-five, from "and (iii)" to the end of the section. In section sixty-six, the words "or special." Section seventy-seven. Section eighty-three. In section eighty-five, the words "not exceeding three guineas a day." Section ninety-two, from "but in" to the end of the section. Subsection (3) except paragraph (*c*), and subsection (4) of section ninety-four. Subsections (1), (2), (7), (8), and (14) of section ninety-six. In subsection (3) of section ninety-seven the words "the time allowed under any order for the execution of any works or the demolition of a building or." The First Schedule, so far as it applies to Scotland. The Third, Fourth, and Fifth Schedules.
59 & 60 Vict. c. 31.	The Housing of the Working Classes Act, 1890, Amendment (Scotland) Act, 1896.	Section three.
63 & 64 Vict. c. 59.	The Housing of the Working Classes Act, 1900.	Sections two, six, and seven. In section eight the words "Scotland or."
3 Edw. 7, c. 39	The Housing of the Working Classes Act, 1903.	Paragraphs (*a*) and (*b*) of subsection (2) of section five, sections six and eight, in section ten the words "in the manner provided by subsection three of section thirty-two of the principal Act," and section sixteen. In section seventeen the words "Scotland or."

APPENDIX B.

HOUSING OF THE WORKING CLASSES ACT, 1890.

SECOND SCHEDULE.

PROVISIONS WITH RESPECT TO THE PURCHASE AND TAKING OF LANDS IN ENGLAND OTHERWISE THAN BY AGREEMENT, AND OTHERWISE AMENDING THE LANDS CLAUSES ACTS.

Deposit of Maps and Plans.

1. The local authority shall as soon as practicable after the passing of the confirming Act cause to be made out, and to be signed by their clerk or some other principal officer appointed by them, maps and schedules of all lands proposed to be taken compulsorily (which lands are herein-after referred to as the scheduled lands), together with the names, so far as the same can be reasonably ascertained, of all persons interested in such lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

2. The maps made by the local authority shall be upon such scale and be framed in such manner as may be prescribed by the confirming authority.

3. The local authority shall deposit such maps and schedules at the office of the confirming authority, and shall deposit and keep copies of such maps and schedules at the office of the local authority.

Appointment of Arbitrator.

4. After such deposit at the office of the confirming authority as aforesaid, it shall be lawful for the confirming authority, upon the application of the local authority, to appoint an arbitrator between the local authority, and the persons interested in such of the scheduled lands, or lands injuriously affected by the execution of such scheme, so far as compensation for the same has not been made the subject of agreement.

Proceedings on Arbitration.

5. Before any arbitrator enters upon any inquiry he shall, in the presence of a justice of the peace, make and subscribe the following declaration ; that is to say,

"I *A.B.* do solemnly and sincerely declare, that I will faithfully "and honestly, and to the best of my skill and ability, hear and deter- "mine the matters referred to me under the provisions of the Housing "of the Working Classes Act, 1890.

A.B.

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator, having made such declaration wilfully act contrary thereto, he shall be guilty of a misdemeanour.

6. As soon as an arbitrator has been appointed as aforesaid, the confirming authority shall deliver to him the maps and schedules deposited at their office, and the local authority shall publish once in each of three successive weeks the following particulars:—

(1) The appointment of the arbitrator; and

(2) The deposit at the office of the local authority of the copies of such maps and schedules as aforesaid, with a description of the situation of such office, and a statement of the time at which such copies may be inspected by any person desirous of inspecting the same.

Such publication shall be made not only by advertisement, but also by placards and handbills affixed in conspicuous places on or near the lands to be taken, and also by leaving a notice thereof at each house proposed to be taken, and also by sending a notice thereof by post to the persons interested in such lands as owners or reputed owners, lessees or reputed lessees, so far as they can be reasonably ascertained.

7. In every case in which compensation is payable under Part I. of this Act, by the local authority to any claimant, and which compensation has not been made the subject of agreement (in this Act referred to as "a disputed case"), the arbitrator shall ascertain in such manner as he thinks most convenient the amount of compensation demanded by the claimant, and the amount which the local authority may be willing to pay; and after hearing all such parties interested in each disputed case as may appear before him at a time and place of which notice has been given as in Part I. of this Act mentioned, he shall proceed to decide on the amount of compensation to which he may consider the claimant to be entitled in each case.

8. The arbitrator shall give notice to the claimants in disputed cases by causing such notice to be published or otherwise in such manner as he thinks advisable, of a time and place at which the difference between the claimants and the local authority in disputed cases as to the amount of compensation to be paid will be decided by the arbitrator.

9. After the arbitrator has arrived at a decision on all the disputed cases brought before him he shall make an award under his hand and seal, and such award shall be final, and be binding and conclusive (subject to the provisions concerning an appeal herein-after contained) upon all persons whomsoever, and no such award shall be

set aside for irregularity in matter of form, but the arbitrator may and, if the local authority request him so to do, shall from time to time make an award respecting a portion only of the disputed cases brought before him.

10. Such award as aforesaid shall be deposited at the office of the confirming authority, and a copy thereof shall be deposited at the office of the local authority, and the local authority shall thereupon publish once in each of three successive weeks notice of the deposit having been made at the office of the local authority of a copy of the award, and a further notice requiring all persons claiming to have any right to or interest in the lands (the compensation to be paid in respect of which is ascertained by such award) to deliver to the local authority on or before a day to be named in such notice (such day not being earlier than twenty-one days from the date of the last publication of the notice), a short statement in writing of the nature of such claim, and a short abstract of the title on which the same is founded ; and such statement and abstract shall be paid for by the local authority. Such abstract of title, in the case of a person claiming a fee simple interest in the land, shall commence twenty years previous to the date of the claim, except there has been an absolute conveyance on sale within twenty years, and more than ten years previous to the claim when the abstract shall commence with such conveyance.

Special Powers of Arbitration.

11. The arbitrator shall have the same power of apportioning any rent service rentcharge, chief or other rent, payment, or incumbrance, or any rent payable in respect of lands comprised in a lease, as two justices have under the Lands Clauses Consolidation Act, 1845.

12. Notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845, the arbitrator may determine that such part of any house, building, or manufactory as is proposed to be taken by the local authority can be taken without material damage to such house, building, or manufactory, and if he so determine may award compensation in respect of the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell and convey to the local authority such part, without the local authority being obliged to purchase the greater part or the whole of such house, building, or manufactory.

The local authority, or any person interested, if dissatisfied with a determination under this enactment, may, in manner provided with respect to appeals to a jury in respect of compensation for land by this schedule, submit the question of whether the said part can be taken without material damage, as well as the question of the proper amount of compensation, to a jury ; and the notice of intention to appeal shall be given within the same time as notice of

intention to appeal against the amount of compensation awarded is required to be given.

13. The amount of purchase money or compensation to be paid in pursuance of section one hundred and twenty-four of the Lands Clauses Consolidation Act, 1845, in respect of any estate, right, or interest in or charge affecting any of the scheduled lands which the local authority have through mistake or inadvertence failed or omitted duly to purchase or make compensation for, shall be awarded by the arbitrator and be paid, in like manner, as near as may be, as the same would have been awarded and paid if the claim of such estate, right, interest, or charge had been delivered to the arbitrator before the day fixed for the delivery of statements of claims.

If the arbitrator is satisfied that the failure or omission to purchase the said estate, right, interest, or charge, arose from any default on the part either of the claimant or of the local authority, he may direct the costs to be paid by the party so in default.

Payment of Purchase Money.

14. Within thirty days from the delivery of such statement and abstract as aforesaid to the local authority, the local authority shall, where it appears to them that any person so claiming is absolutely entitled to the lands, estate, or interest claimed by him, deliver to such person, on demand, a certificate stating the amount of the compensation to which he is entitled under the said award.

15. Every such certificate shall be prepared by and at the cost of the local authority; and where any agreement has been entered into as to the compensation payable in respect of the interest of any person in any lands, the local authority may, where it appears to them that such person is absolutely entitled, deliver to such person a like certificate.

16. The local authority shall, thirty days after demand, pay to the party to whom any such certificate is given, or otherwise as herein provided in the cases herein-after mentioned, the amount of moneys specified to be payable by such certificate to the party to whom or in whose favour such certificate is given, his or her executors, administrators, or assigns.

17. If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to enter up judgment against the local authority in the High Court, for the amount of the sums specified in such certificate, in the same manner in all respects as if he had been, by warrant of attorney from the local authority, authorised to enter up judgment for the amount mentioned in the certificate, with costs, as is usual in like cases; and all moneys payable under such certificates, or to be recovered by such judgments as aforesaid, shall at law and in equity be taken as personal estate as from the time of the local authority entering on any such lands as aforesaid.

18. When and so soon as the local authority have paid to the party to whom any such certificate as aforesaid is given, or otherwise, as herein provided, in the cases herein-after mentioned, the amount specified to be payable by such certificate to the party to whom or in whose favour the certificate is given, his executors, administrators, or assigns, it shall be lawful for the local authority, upon obtaining such receipt as herein-after mentioned, from time to time to enter upon any lands in respect of which such certificate is given, and thenceforth to hold the same for the estate or interest in respect of which the amount specified in such certificate was payable.

19. In every case in which any moneys are paid by any local authority under this Act, for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a receipt for the same, and such receipt shall have the effect of a grant, release, and conveyance of all the estate and interest of such party, and of all parties claiming under or through him, in the lands in respect of which such moneys are paid, provided such receipt has an ad valorem stamp of the same amount impressed thereon in respect of the purchase moneys mentioned in such certificate as would have been necessary if such receipt had been an actual conveyance of such estate or interest, every such receipt to be prepared by and at the cost of the local authority.

20. If it appear to the local authority, from any such statement and abstract as aforesaid, or otherwise, that the person making any such claim as aforesaid is not absolutely entitled to the lands, estate, or interest in respect of which his claim is made, or is under any disability, or if the title to such lands, estate, or interest be not satisfactorily deduced to the local authority, then and in every such case the amount to be paid by the local authority in respect of such lands, estate, or interest as aforesaid shall be paid and applied as provided by the clauses of the Lands Clauses Consolidation Act, 1845, as amended by the Court of Chancery Funds Act, 1872, "with "respect to the purchase money or compensation coming to parties "having limited interests, or prevented from treating, or not making "title."

Note.—Any purchase money or compensation payable under the Housing Acts by a local authority in respect of any lands, estate, or interest of another local authority may, if the Local Government Board consent, instead of being paid into court, be paid and applied as the Board determine ((1909) s. 5 (1)), and such determination is final and inclusive (*ibid.*, s. 5 (2)).

21. Where any person claiming any right or interest in any lands refuses to produce his title to the same, or where the local authority have under the provisions of Part I. of this Act taken possession of any lands in respect of the compensation whereof, or of any estate or interest wherein, no claim has been made within one year from the time of the local authority taking possession, or if any party to whom any such certificate has been given or tendered

refuses to receive such certificate, or to accept the amount therein specified as payable to him, then and in any such case the amount payable by the local authority in respect of such lands, estate, or interest, or the amount specified in such certificate, shall be paid into the Bank of England, in manner provided by the last-mentioned clauses of the Lands Clauses Consolidation Act, 1845, as amended by the Court of Chancery Funds Act, 1872, and the amount so paid into the said Bank shall be accordingly dealt with as by the said Act provided.

22. Nothing herein contained shall prevent the local authority from requiring any further abstract or evidence of title respecting any lands included in any such award as aforesaid, in addition to the abstract or statement herein-before mentioned, if they think fit, so as the same be obtained at the cost of the local authority.

23. If from any reason whatever the local authority does not deliver the certificate aforesaid to any party claiming to be entitled to any interest in any lands the possession whereof has been taken by the local authority as aforesaid, then the right to have a certificate according to the provisions of this Act may, at the cost and charge of the local authority, be enforced by any party or parties, by application to the High Court, in a summary way by petition, and all other rights and interests of any party or parties arising under the provisions of this Act may be in like manner enforced against the local authority by such application as aforesaid.

Entry on Lands on making Deposit.

24. Where the local authority are desirous, for the purposes of their works, of entering upon any lands before they would be entitled to enter thereon under the provisions herein-before contained, it shall be lawful for the local authority, at any time after the arbitrator has framed his award, upon depositing in the Bank of England such sum as the arbitrator may certify to be in his opinion the proper amount to be so deposited in respect of any lands authorised to be purchased or taken by the local authority, and mentioned in such award, to enter upon and use such lands for the purposes of the improvement scheme of the local authority: and the arbitrator shall, upon the request of the local authority at any time after he has framed such award, certify under his hand the sum which, in his opinion, should be so deposited by the local authority in respect of any lands mentioned in such award before they enter upon and use the same as aforesaid, and the sum to be so certified shall be the sum or the amount of the several sums set forth in such award as the sum or sums to be paid by the local authority in respect of such lands, or such greater amount as to the arbitrator, under the circumstances of the case, may seem proper; and, notwithstanding such entry as aforesaid, all proceedings for and in relation to the completion of the award, the delivery of certificates, and other

proceedings under Part I. of this Act, shall be had, and payments made, as if such entry and deposit had not been made ;

Provided that the local authority shall, where they enter upon any lands by virtue of this present provision, pay interest at the rate of five pounds per centum per annum upon the compensation money payable by them in respect of any lands so entered upon, from the time of their entry until the time of the payment of such money and interest to the party entitled thereto, or where, under the provisions of Part I. of this Act, such compensation is required to be paid into the Bank of England, then until the same, with such interest, is paid into such Bank accordingly ; and where under this provision interest is payable on any compensation money the certificate to be delivered by the local authority in respect thereof shall specify that interest is so payable, and the same shall be recoverable in like manner as the principal money mentioned in such certificate.

25. The money so deposited as last aforesaid shall be paid into the Bank of England to such account as may from time to time be directed by any regulation or Act for the time being in force in relation to moneys deposited in the bank in similar cases, or to such account as may be directed by any order of the High Court, and remain in the bank by way of security to the parties interested in the lands which have been so entered upon for the payment of the money to become payable by the local authority in respect thereof under the award of the arbitrator ; and the money so deposited may, on the application by petition of the local authority, be ordered to be invested in Bank Annuities or Government securities, and accumulated : and upon such payment as aforesaid by the local authority it shall be lawful for the High Court, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or tranferred to the local authority, or, in default of such payment as aforesaid by the local authority, it shall be lawful for the said court to order the same to be applied in such manner as it thinks fit for the benefit of the parties for whose security the same shall so have been deposited.

Appeal.

26. In the following cases, namely,—

(*a*) Where the party named in any certificate issued under the provisions herein-before contained of the amount of the compensation ascertained by any award under Part I. of this Act (or any party claiming under the party so named) is dissatisfied with the amount in such certificate certified to be payable, and such amount exceeds one thousand pounds, and

(*b*) Where any party claiming any interest in any moneys so paid into court as aforesaid is dissatisfied with the amount of

the price or compensation in respect of which such moneys are paid into court, and such amount exceeds one thousand pounds; also

(*c*) Where the local authority is dissatisfied with the amount of compensation which the arbitrator appointed under the provisions of Part I. of this Act has awarded to be paid by the local authority to any person in respect of any estate or interest in lands, and such amount exceed the sum of one thousand pounds:

the party dissatisfied may, upon obtaining the leave of the High Court, which leave may be granted by such court or any judge thereof at chambers in a summary manner, and upon being satisfied that a failure of justice will take place if the leave is not granted, submit the question of the proper amount of compensation to a jury, provided that such party give notice in writing to the other party of their intention to appeal within ten days after the cause of appeal has arisen.

The cause of appeal shall be deemed to have arisen,—

(1) Where a certificate has been issued as aforesaid, at the date of the issue of the certificate;

(2) Where moneys have been paid into court, at the date of the payment into court;

(3) Where the local authority appeals, at the date of the making of the award.

27. Where a notice has been given under Part I. of this Act of an appeal to a jury in respect of compensation for land, or any interest in land, a question of disputed compensation required to be determined by the verdict of a jury shall be deemed to have arisen within the meaning of the Lands Clauses Consolidation Act, 1845, and all the provisions of that Act contained in sections thirty-eight to fifty-seven, both inclusive, shall be deemed to apply, except sections forty-seven and fifty-one: Provided also, that—

(1) Where the local authority appeals that authority shall be deemed to be the plaintiff and the party entitled to compensation to be the defendant; and

(2) Where the party claiming compensation appeals, then, in case the verdict of the jury is for a sum exceeding the award of the arbitrator, the local authority shall pay to such party the costs of the trial, such costs to be taxed and ascertained in the same manner as costs are by law ascertained on the trial of issues tried in the High Court; but in case the verdict of the jury is for a sum not exceeding the award of the arbitrator, the party appealing shall pay to the local authority the costs of the trial to be taxed and ascertained in manner aforesaid.

(3) Where the local authority is the appellant,—

(*a*) Notwithstanding the verdict of the jury may be for a sum less than that awarded by the arbitrator, the local authority shall pay to the other party such

sum not exceeding twenty pounds for the costs of the trial as the sheriff or other officer before whom the same is tried shall direct; and

(*b*) In case the verdict of the jury is for a sum equal to or exceeding the award of the arbitrator, the local authority shall pay to the other party the costs of the trial, such costs to be taxed and ascertained in manner aforesaid.

(*c*) The amount of compensation awarded by the arbitrator shall not be communicated to the jury, but they shall be required to make an independent assessment of the amount of compensation to which the party claiming compensation is entitled.

Costs of Arbitration.

28. The salary or remuneration, travelling, and other expenses of the arbitrator, and all costs, charges, and expenses (if any) which may be incurred by the confirming authority in carrying the provisions of Part I. of this Act into execution, shall, after the amount thereof shall have been certified under this article, be paid by the local authority; and the amount of such costs, charges, and expenses shall from time to time be certified by the confirming authority after first hearing any objections that may be made to the reasonableness of any such costs, charges, and expenses by or on behalf of the local authority; and every certificate of the said confirming authority certifying the amount of such costs, charges, and expenses shall be taken as proof in all proceedings at law or in equity of the amount of such respective costs, charges, and expenses, and the amount so certified shall be a debt due from the local authority to the Crown, and shall be recoverable accordingly.

Further, any such certificate may be made a rule of a superior court on the application of any party named therein, and may be enforced accordingly.

29.—(1) It shall be lawful for the arbitrator, where he thinks fit, upon the request of any party by whom any claim has been made before him, to certify the amount of the costs properly incurred by such party in relation to the arbitration, and the amount of the costs so certified shall be paid by the local authority;

Provided that—

(*a*) The arbitrator shall not be required to certify the amount of costs in any case where he considers such costs are not properly payable by the local authority;

(*b*) The arbitrator shall not be required to certify the amount of costs incurred by any party in relation to the arbitration, in any case where he considers that such party neglected, after due notice from the local authority, to deliver to that authority a statement in writing within such time, and

containing such particulars respecting the compensation claimed, as would have enabled the local authority to make a proper offer of compensation to such party before the appointment of the arbitrator.

(*c*) No certificate shall be given where the arbitrator has awarded the same or a less sum than has been offered by the local authority in respect of the claim before the appointment of the arbitrator.

(2) If within seven days after demand the amount certified be not paid to the party entitled to receive the same, such amount shall be recoverable as a debt from the local authority with interest at the rate of five per cent. per annum for any time during which the same remains unpaid after such seven days as aforesaid.

Miscellaneous.

30. The arbitrator may call for the production of any documents in the possession or power of the local authority, or of any party making any claim under the provisions of Part I. of this Act, which such arbitrator may think necessary for determining any question or matter to be determined by him under Part I. of this Act, and may examine any such party and his witnesses, and the witnesses for the local authority, on oath, and administer the oaths necessary for that purpose.

31. If any arbitrator appointed in pursuance of Part I. of this Act die, or refuse, decline, or become incapable to act, the confirming authority may appoint an arbitrator in his place, who shall have the same powers and authorities as the arbitrator first appointed; and upon the appointment of any arbitrator in the place of an arbitrator dying, or refusing, declining, or becoming incapable to act, all the documents relating to the matter of the arbitration which were in the possession of such arbitrator shall be delivered to the arbitrator appointed in his place, and the local authority shall publish notice of such appointment in the London Gazette.

Note.—Other publications may suffice. See (1909) s. 43, and p. 105, *ante*.

32. All notices required by this schedule to be published shall be published in some one and the same newspaper circulating within the jurisdiction of the local authority, and where no other form of service is prescribed all notices required to be served or given by the local authority under this schedule or otherwise upon any persons interested in or entitled to sell lands, shall be served in manner in which notices of lands proposed to be taken compulsorily for the purpose of an improvement scheme are directed by Part I. of this Act to be served upon owners or reputed owners, lessees or reputed lessees, and occupiers.

Application of Schedule to Scotland.

The provisions of this schedule shall apply to Scotland, with the following modifications :—

33.—(*a*) In any reference in this schedule to "an abstract of title" there shall be substituted "a legal progress of the title deeds" :

(*b*) In articles sixteen and eighteen of this schedule the words heirs, executors, or assignees shall be substituted for the words "executors, administrators, or assigns" :

(*c*) In articles twenty and twenty-one the words "as amended " by the Court of Chancery Funds Act, 1872," shall be omitted :

(*d*) Any reference to payment of money into the Bank of England shall be construed to be payment into any one of the incorporated or chartered banks of Scotland :

(*e*) Any reference to the High Court shall be construed as a reference to the Court of Session :

(*f*) Any money ordered to be invested under article twenty-five of this schedule shall be invested only in Government securities :

(*g*) Any reference to payment of money into Court shall be construed as payment into bank :

(*h*) A reference to plaintiff and defendant shall be construed as a reference to pursuer and defender :

(*i*) The Edinburgh Gazette shall be substituted for the London Gazette.

NOTE.—See note to paragraph 31.

34. In lieu of articles 11, 17, and 19 of this schedule the following provisions shall be substituted :—

(i.) The arbitrator shall have the same power of apportioning any feu duty, ground annual, casualty or superiority, or any rent or other annual or recurring payment or incumbrance, or any rent payable in respect of lands comprised in a lease, as the sheriff has under the Lands Clauses Consolidation (Scotland) Act, 1845.

(ii.) If the local authority wilfully make default in such payment as aforesaid, then the party named in such certificate shall be entitled to record the same in the books of council and session, or other judge's books competent, and to have a decree interponed thereto, and to be extracted with a view to execution, in the like manner as if a formal clause of registration had been contained therein ; and all diligence and execution shall be competent thereon in the like manner and to all effects as upon any bond containing such formal clause of registration ; and all moneys payable under such certificates, or to be recovered by such execution and diligence as aforesaid, shall be taken as personal estate as

from the time of the local authority entering on any such lands as aforesaid.

(iii.) In every case in which any moneys are paid by any local authority under this Act for such compensation as aforesaid, the party receiving such moneys shall give to the local authority a conveyance of the lands in respect of which such moneys are paid, or of all the estate and interest of such party, and of all parties claiming under or through him, in such lands, and every such conveyance shall be prepared by and at the costs of the local authority.

* * * * * *

APPENDIX C.

HOUSING OF THE WORKING CLASSES ACT, 1903.

SCHEDULE.

1. If in the administrative county of London or in any borough or urban district, or in any parish not within a borough or urban district, the undertakers have power to take under the enabling Act working-men's dwellings occupied by thirty or more persons belonging to the working class, the undertakers shall not enter on any such dwellings in that county, borough, urban district, or parish, until the Local Government Board have either approved of a housing scheme under this schedule or have decided that such a scheme is not necessary.

For the purposes of this schedule a house shall be considered a working-man's dwelling if wholly or partially occupied by a person belonging to the working classes, and for the purpose of determining whether a house is a working-man's dwelling or not, and also for determining the number of persons belonging to the working classes by whom any dwelling-houses are occupied, any occupation on or after the fifteenth day of December next before the passing of the enabling Act, or, in the case of land acquired compulsorily under a general Act without the authority of an order, next before the date of the application to the Local Government Board under this schedule, for their approval of or decision with respect to a housing scheme, shall be taken into consideration.

NOTE.—In applying the schedule to Scotland, the expression "district within the meaning of the Public Health (Scotland) Act, 1897," is to be substituted for the expressions "borough," "urban district," and "parish" respectively; and "Local Government Board for Scotland" for "Local Government Board" ((1909), s. 53 (10) and Schedule III.).

2. The housing scheme shall make provision for the accommodation of such number of persons of the working class as is, in the opinion of the Local Government Board, taking into account all the circumstances, required, but that number shall not exceed the aggregate number of persons of the working class displaced; and in calculating that number the Local Government Board shall take into consideration not only the persons of the working class who are occupying the working-men's dwellings which the undertakers have power to take,

but also any persons of the working class who, in the opinion of the Local Government Board, have been displaced within the previous five years in view of the acquisition of land by the undertakers.

3. Provision may be made by the housing scheme for giving undertakers who are a local authority, or who have not sufficient powers for the purpose, power for the purpose of the scheme to appropriate land or to acquire land, either by agreement or compulsorily under the authority of a Provisional Order, and for giving any local authority power to erect dwellings on land so appropriated or acquired by them, and to sell or dispose of any such dwellings, and to raise money for the purpose of the scheme as for the purposes of Part III. of the principal Act, and for regulating the application of any money arising from the sale or disposal of the dwellings; and any provisions so made shall have effect as if they had been enacted in an Act of Parliament.

4. The housing scheme shall provide that any lands acquired under that scheme shall, for a period of twenty-five years from the date of the scheme, be appropriated for the purpose of dwellings for persons of the working class, except so far as the Local Government Board dispense with that appropriation; and every conveyance, demise, or lease of any such land shall be endorsed with notice of this provision, and the Local Government Board may require the insertion in the scheme of any provisions requiring a certain standard of dwelling-house to be erected under the scheme, or any conditions to be complied with as to the mode in which the dwelling-houses are to be erected.

Note.—In applying to Scotland substitute for "every conveyance, etc., provision," the words "every such appropriation of lands shall be recorded as a real burden affecting such lands in the appropriate register of sasines" ((1909), s. 53 (10) and Schedule III.).

5. If the Local Government Board do not hold a local inquiry with reference to a housing scheme, they shall, before approving the scheme, send a copy of the draft scheme to every local authority, and shall consider any representation made within the time fixed by the Board by any such authority.

6. The Local Government Board may, as a condition of their approval of a housing scheme, require that the new dwellings under the scheme, or some part of them, shall be completed and fit for occupation before possession is taken of any working-men's dwellings under the enabling Act.

7. Before approving any scheme the Local Government Board may if they think fit require the undertakers to give such security as the Board consider proper for carrying the scheme into effect.

8. The Local Government Board may hold such inquiries as they think fit for the purpose of their duties under this schedule, and subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relate to local inquiries), shall apply

for the purpose, and where the undertakers are not a local authority shall be applicable as if they were such an authority.

NOTE.—In applying to Scotland, substitute for the reference to the Local Government Act, 1888, "subsections one and three (with the substitution of the Local Government Board for Scotland for the Secretary for Scotland) of section 93 of the Local Government (Scotland) Act, 1889" ((1909) s. 53 (10) and Schedule III.).

9. If the undertakers enter on any working men's dwelling in contravention of the provisions of this schedule, or of any conditions of approval of the housing scheme made by the Local Government Board, they shall be liable to a penalty not exceeding five hundred pounds in respect of every such dwelling:

Any such penalty shall be recoverable by the Local Government Board by action in the High Court, and shall be carried to and form part of the Consolidated Fund.

NOTE.—In applying to Scotland, substitute "Court of Session" for "High Court" ((1909), s. 53 (10) and Schedule III.).

10. If the undertakers fail to carry out any provision of the housing scheme, the Local Government Board may make such order as they think necessary or proper for the purpose of compelling them to carry out that provision, and any such order may be enforced by mandamus.

NOTE.—In applying to Scotland, for "mandamus" substitute "order of the Court of Session on the application of the Board" ((1909), s. 53 (10) and Schedule III.).

11. The Local Government Board may, on the application of the undertakers, modify any housing scheme which has been approved by them under this Schedule, and any modifications so made shall take effect as part of the scheme.

12. For the purpose of this schedule—

(*a*) The expression "undertakers" means any authority, company, or person who are acquiring land compulsorily or by agreement under any local Act or Provisional Order or order having the effect of an Act, or are acquiring land compulsorily under any general Act:

(*b*) The expression "enabling Act" means any Act of Parliament or Order under which the land is acquired:

(*c*) The expression "local authority" means the council of any administrative county and the district council of any county district, or, in London, the council of any metropolitan borough, in which in any case any houses in respect of which the re-housing scheme is made are situated, or in the case of the city the common council:

(*d*) The expression "dwelling" or "house" means any house or part of a house occupied as a separate dwelling:

(*e*) The expression "working class" includes mechanics, artisans, labourers, and others working for wages; hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others, except members of their own family, and persons other than domestic servants whose income in any case does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

NOTE.—In applying to Scotland provision (*c*), substitute for the words "council of any administrative . . . in which" the words "local authority for the purposes of the Public Health (Scotland) Act, 1897, in whose district" ((1909), s. 53 (10) and Schedule III.).

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